

1 UNITED STATES DISTRICT COURT  
2 MIDDLE DISTRICT OF TENNESSEE  
3 NASHVILLE DIVISION

4 UNITED STATES OF AMERICA )  
5 VS ) No. 3:17-cr-025  
6 ROBERT ELLIS WADDEY )

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8 BEFORE THE HONORABLE BARBARA D. HOLMES,  
9 MAGISTRATE JUDGE

10 **TRANSCRIPT OF ELECTRONIC RECORDING**

11 (via video conference)

12 May 19, 2020

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13  
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1  
2           The above-styled cause came to be heard  
3 on May 19, 2020, before the Hon. Barbara D. Holmes,  
4 Magistrate Judge, when the following proceedings were  
5 had to-wit:

6                   **TRANSCRIPT OF ELECTRONIC RECORDING**

7                           \*\*\*

8  
9           THE COURT: I see the marshal, now I  
10 see -- I think we have everyone on. Can you all hear  
11 me? If you would just nod your heads if you can hear  
12 me. All right. Everyone's nodding their head. I'm  
13 going to ask everyone to mute their line because we  
14 are getting some feedback.

15           All right. And then I'm going to go  
16 ahead and call the case and we'll start the rest of  
17 this afternoon's proceedings. We are here in the  
18 matter of the *United States versus Robert Ellis*  
19 *Waddey*, No. 3:17-00025. All right. We have -- now  
20 we've lost Mr. Suedekum. Let's see if Mr. Suedekum  
21 rejoins.

22           And, again, if everybody would mute their  
23 line. There we go. That's better. We've lost  
24 Mr. Suedekum again. All right. I'm going to have  
25 everybody reload. If you will go up to the refresh or

1 reload symbol in the top left-hand corner that looks  
2 like a half circle with an arrow and click that, and  
3 if everybody would reload, then we'll see if we can  
4 resolve some of these feedback issues.

5 All right. That seems to have worked.  
6 Can everybody see and hear? We lost Mr. -- all right.  
7 We have a witness back. All right. All right.  
8 Again, if everybody would keep our system muted.

9 We are here in the matter of the  
10 United States versus Robert Ellis Waddey,  
11 No. 3:17-00025. On behalf of the government we have  
12 Assistant United States Attorney Chris Suedekum, and  
13 on behalf Mr. Waddey, we have Jonathan Farmer.

14 All right. Let's take care of a couple  
15 of housekeeping things and then we'll get into the  
16 substance of the hearing. Mr. Farmer, have you had an  
17 opportunity to talk with Mr. Waddey about proceeding  
18 today by video conference? Mr. Farmer? I need you  
19 to -- go ahead and unmute, if you would.

20 MR. FARMER: I can hear you now.

21 THE COURT: Yes, and I'll have you mute  
22 it again in a moment because there's a lot of  
23 feedback, but have you had an opportunity to talk with  
24 Mr. Waddey about proceeding by video today?

25 I think he's trying to do it on a phone.

1                   Mr. Farmer, have you had an opportunity  
2 to talk with Mr. Waddey about proceeding by video  
3 today?

4                   MR. FARMER: Yes, I have. We've  
5 discussed proceeding via the preliminary hearing and  
6 the detention hearing by video. And we consent to do  
7 the same.

8                   THE COURT: Is there anyone that's using  
9 two devices that might be interfering with each other,  
10 like a phone and a laptop? Okay. Well, that seems to  
11 have solved whatever the problem was for the moment.

12                   All right. But I am hearing a lot of  
13 feedback, so if you would just keep your devices  
14 muted. And we've lost Mr. Farmer again.

15                   Mr. Waddey, let me ask you a question,  
16 Robert Waddey, would you have any opposition to  
17 Mr. Farmer participating by telephone rather than by  
18 video?

19                   THE DEFENDANT: If he thinks that would  
20 be a good idea, no, ma'am, I do not.

21                   THE COURT: And do you --

22                   THE DEFENDANT: I don't have any  
23 objection.

24                   THE COURT: And do you consent proceeding  
25 today by video or telephonically?

1 THE DEFENDANT: Yes, ma'am, Your Honor.

2 THE COURT: All right. Hold on just a  
3 moment. I'm going to mute my line and I'm going to  
4 have my courtroom deputy call Mr. Farmer or email him  
5 and have him participate by phone.

6 THE DEFENDANT: Okay, yes, ma'am,  
7 Your Honor.

8 (Pause in proceedings.)

9 THE COURT: All right. We're just --  
10 we're seeing about Mr. Farmer dialing in. Mr. Farmer,  
11 are you on the line?

12 MR. FARMER: Hello.

13 THE COURT: Mr. Farmer, is that you?

14 MR. FARMER: It is me, yes.

15 THE COURT: All right. Mr. Waddey is  
16 agreeable to you participating by telephone, but I am  
17 going to ask you to mute your line until I talk to you  
18 because we're getting a lot of interference again. So  
19 I know it's not anything you're doing, Mr. Farmer, but  
20 I think it's at your end where we're having some of  
21 these issues, so if you can mute your line and then --  
22 I already -- this is, again, the matter of the  
23 *United States versus Robert Ellis Waddey*,  
24 No. 3:17-00025. We are proceeding by video today for  
25 the preliminary hearing and detention hearing in

1 connection with the petition for warrant for offender  
2 on supervision.

3 And because Mr. Waddey is a supervised  
4 releasee, Mr. Farmer, it is your -- it is his burden  
5 to demonstrate by clear and convincing evidence, of  
6 course, that there's a basis for release. It is the  
7 government's burden with respect to the preliminary  
8 hearing.

9 So I think because it is the government's  
10 burden on the preliminary hearing, Mr. Suedekum, I'm  
11 going to have you go first. And then we'll hear from  
12 Mr. Farmer as to any proof that he has with respect to  
13 detention.

14 So, Mr. Suedekum, are you ready to  
15 proceed?

16 MR. SUEDEKUM: Yes, Your Honor.

17 THE COURT: All right. If you'd go  
18 ahead, then, sir.

19 MR. SUEDEKUM: Your Honor, I do have two  
20 witnesses. The first witness is probation officer  
21 James Foster.

22 THE COURT: All right. Mr. Foster, if  
23 you would raise your right hand for me, please.  
24  
25

**JAMES FOSTER**

called as a witness, after having been first duly sworn, testified as follows:

THE COURT: I'm going to need you to unmute for just a moment, Mr. Foster.

THE WITNESS: Yes.

THE COURT: So you do swear to tell the truth, the whole truth and nothing but the truth. Swear or affirm, all right. And then Mr. Foster, you can lower your hand. And if you'd state your name for us, please.

THE WITNESS: James Foster.

THE COURT: All right. Go ahead, Mr. Suedekum.

MR. SUEDEKUM: Thank you, Your Honor.

**DIRECT EXAMINATION**

BY MR. SUEDEKUM:

Q. Mr. Foster, are you currently supervising Mr. Waddey?

A. That's correct.

Q. And how long have you been the supervising probation officer for him?

A. I've been supervising Mr. Waddey since approximately September of 2019.

Q. And did you say 2018 or 2019?



1           A.     2019. Mr. Waddey was previously  
2 supervised by other probation officers in the office.

3           Q.     Okay. I want to begin by talking about  
4 the petition that you submitted to the Court. In or  
5 around March 20 of 2020, did you submit a petition to  
6 the Court for action regarding Mr. Waddey?

7           A.     Yes.

8           Q.     And what was the basis of your petition?

9           A.     The basis of the petition consists of  
10 three violations. First violation being that at that  
11 time Mr. Waddey had been charged with a misdemeanor,  
12 domestic assault out of Davidson County. The second  
13 violation alleged instances of admitted and drug tests  
14 (indiscernible) marijuana use. And third violation of  
15 admissions of alcohol use.

16          Q.     And with respect to the petition, was the  
17 information that you put in the petition, do you  
18 believe that to be true and accurate to the best of  
19 your knowledge?

20          A.     Yes.

21          Q.     With respect to the first alleged  
22 violation, could you just describe the basic facts as  
23 you understood them that led to the arrest affidavit  
24 for domestic assault?

25          A.     Yes. Briefly, the Metropolitan Nashville

1 Police Department received a phone call on the evening  
2 of March 15 from Mr. Waddey's girlfriend, Andrea  
3 Stone, alleging a domestic incident. Police came to  
4 the scene and interviewed both Mr. Waddey and  
5 Ms. Stone. Ms. Stone alleged, in essence, that she  
6 and Mr. Waddey had been physically scuffling during  
7 which his foot broke her jaw. Mr. Waddey gave a more  
8 brief but silently different explanation during which  
9 he admitted they were scuffling, but he terminated his  
10 account of events apparently earlier than Ms. Stone  
11 did.

12 Police left the scene after counseling  
13 both individuals on domestic violence issues.  
14 Mr. Waddey -- no charges were pressed that evening.  
15 Mr. Waddey reportedly left the incident -- or left the  
16 residence and then stayed with his parents that night.

17 It appears that on the 16th, in relation  
18 to the same alleged course of conduct, Ms. Stones  
19 requested a temporary order of protection, which was  
20 issued, prohibiting Mr. Waddey from having any  
21 threatening or other contact with her or their  
22 children. And on the 17th, Ms. Stones -- or Ms. Stone  
23 requested a domestic assault charge, which was sworn  
24 out against Mr. Waddey, that being the aforementioned  
25 misdemeanor domestic assault charge. And that warrant

1       existed and was in place until his recent arrest  
2       earlier this month.

3               Q.       And did a state court judge find probable  
4       cause and issue an arrest warrant for the domestic  
5       assault incident?

6               A.       Yes.

7               Q.       And to summarize Ms. Stone's allegation,  
8       she said that at some point that they were wrestling  
9       or doing MMA-style moves together; is that right?

10              A.       Yes. As stated in the petition, we  
11       allege that earlier on the same evening, that would be  
12       March 15, Mr. Waddey had been consuming alcohol and  
13       watching movies. She stated that he occasionally  
14       liked to act out such films and also that they had, of  
15       late, been learning Brazilian jujitsu together and  
16       they sometimes practiced together, but he allegedly  
17       sometimes took it, quote, too far.

18                      On the evening in question, she alleged  
19       that they'd been practicing martial arts  
20       (indiscernible) on their bed and that she had wished  
21       to conclude that practice but Mr. Waddey would not.  
22       She stated that she broke out of several of the holds  
23       that he was using upon her (indiscernible) pinned her  
24       down several more times. And that in the course of  
25       her breaking one of his holds, his foot allegedly

1 struck her jaw.

2 Q. And she went to the police two days  
3 later. Did she report that her jaw was still hurt?

4 A. If I may, I would need to refer to that  
5 document.

6 Q. Do you have a copy of the domestic  
7 assault affidavit that she signed?

8 A. I do. I'm reading it now.

9 MR. SUEDEKUM: Your Honor, this is the  
10 affidavit that I'd provided to the Court and  
11 Mr. Waddey's counsel prior to the hearing.

12 THE COURT: All right.

13 THE WITNESS: According to the affidavit,  
14 the alleged victim, Ms. Stone, stated that Mr. Waddey  
15 would become violent when he consumed alcohol. She  
16 stated that on the evening of the 15th of March,  
17 Mr. Waddey was intoxicated. They entered into a  
18 scuffle, after which he put her into an ankle lock.  
19 She stated that she had been able to free herself by  
20 kicking him off.

21 She stated that she kicked him off, but  
22 he continued to pursue her and pin her down on the bed  
23 with his knees and that she was able to again kick him  
24 off, but in that moment he broke her jaw with his  
25 foot. She stated that the actions were unwanted and

1 that she had, instead of doing these things, wanted to  
2 go to sleep. She claims that she had repeatedly told  
3 Mr. Waddey to stop, but he did not stop. And she  
4 stated that while there was no visible injury, her jaw  
5 continued to hurt.

6 Q. All right. And at some point did you  
7 obtain a copy of the police report from March 15 when  
8 police officers responded to their home?

9 A. Yes. In the days immediately following  
10 the alleged incident, I obtained first a copy of the  
11 incident report. The document that I was just quoting  
12 a moment ago, the affidavit, I obtained that three  
13 days ago because those documents had remained sealed  
14 (indiscernible) Mr. Waddey's state warrant  
15 (indiscernible).

16 Q. Did Mr. Waddey, from your review of the  
17 police report, speak to police on the night of  
18 March 15?

19 A. According to the incident report, he did  
20 speak to them on that evening.

21 Q. And according to the incident report, did  
22 Mr. Waddey give a different version of events from  
23 what Ms. Stones had said had happened?

24 A. Mr. Waddey stated that he and Ms. Stones  
25 had been practicing Brazilian jujitsu on their bed

1 where Ms. Stone attempted to place him into an ankle  
2 lock. He stated that he reversed that attempt and  
3 then put her into an ankle lock, at which time she  
4 claimed that he had hurt her ankle.

5 But according to the incident report,  
6 Mr. Waddey's statements did not go beyond that, as he  
7 declined to answer any further question regarding the  
8 event.

9 Q. When you spoke to Mr. Waddey a day or two  
10 later -- and I believe this is set forth in the  
11 petition -- did Mr. Waddey provide you a different  
12 version of events from what he had told police,  
13 according to the police report?

14 A. Yes.

15 Q. When you spoke to Mr. Waddey a day or two  
16 later, what was the new version of events that he  
17 shared with you, that he claimed had happened?

18 A. I spoke to Mr. Waddey on the 16th. He  
19 stated that he and Ms. Stones had been arguing  
20 frequently in the week prior to the alleged domestic  
21 assault and also alleged that (indiscernible) COVID-19  
22 pandemic had not been able to obtain some of her  
23 psychiatric medication. He stated that on the evening  
24 of the 15th after they put their two children to bed,  
25 he and Ms. Stones engaged in, quote, rough sex, during

1 which, at Ms. Stones' request, he, quote, choked her  
2 some.

3 He stated that she began to object to  
4 that activity and accused him of, quote, being too  
5 rough, which led to a verbal argument between the two,  
6 after which she called police. Mr. Waddey stated that  
7 after the police had departed the residence, he left  
8 and stayed at his parents' residence where he consumed  
9 an unspecified quantity of alcohol that evening.

10 Q. Turning your attention to the third  
11 alleged violation, is it your testimony that  
12 Mr. Waddey admitted to you that he had consumed  
13 alcohol on the night of March 15th?

14 A. Yes. His admission of using alcohol was  
15 after he went to his parents' residence. I don't  
16 believe he made an admission about alcohol abuse prior  
17 to the alleged event with Ms. Stone.

18 Q. Fair enough. At some point, though, he  
19 admitted to you that at some point that evening he had  
20 consumed alcohol?

21 A. Yes.

22 Q. And one of the conditions of his  
23 supervised release is that he's not allowed to consume  
24 any alcohol; is that correct?

25 A. That's correct.

1           Q.     To your knowledge was this the only  
2 occasion on which Mr. Waddey consumed alcohol while  
3 he's been on supervised release?

4           A.     No.

5           Q.     Did Ms. Stones, in her report to police  
6 and in her domestic violence affidavit, did she  
7 indicate that Mr. Waddey occasionally drank alcohol in  
8 her presence?

9           A.     Yes.

10          Q.     Above and beyond what Ms. Stones  
11 reported, are you aware of any other occasion while on  
12 supervised release that Mr. Waddey has either consumed  
13 alcohol or an occasion for which you suspected him of  
14 consuming alcohol?

15          A.     Yes.

16          Q.     If you would, could you please elaborate  
17 as to any occasions that you're aware of?

18          A.     Yes. In March of 2019, prior to when I  
19 initiated supervision of Mr. Waddey, he had what he  
20 admitted as a significant alcohol relapse, which was  
21 followed by inpatient treatment for alcohol use.  
22 Later during the evaluation that was conducted in  
23 August 19th -- or August 2019, he admitted having  
24 consumed alcohol after he left inpatient treatment.  
25 Mr. Waddey also admitted on August the 14th that he



1 had consumed alcohol, specifically vodka, on the  
2 evening of August 12 and August 13.

3 Q. As a result of these or other incidents,  
4 has Mr. Waddey been referred to alcohol or other  
5 substance abuse counseling or treatment?

6 A. Yes.

7 Q. Based on your conversations with him and  
8 with any therapist, what do you know about whether or  
9 not those sessions have been helpful to Mr. Waddey in  
10 coping with his use of alcohol?

11 A. My understanding is that at times, based  
12 on Mr. Waddey's self-report, he had stated that the  
13 treatment has been helpful. Based on his continued  
14 use of alcohol, I don't think it's been helpful in  
15 helping him to abstain completely.

16 To answer your earlier question regarding  
17 his treatment, Mr. Waddey has been in some form of  
18 outpatient treatment virtually the entire time that  
19 he's been on supervised release, primarily outpatient  
20 counseling through Dr. Gary Wilson, which continued  
21 until, I believe, as late as earlier this year.

22 He's also received psychiatric medication  
23 through Dr. Kent Kyger. Specifically for alcohol,  
24 Mr. Waddey did, in April of 2019, attend a multi-day  
25 inpatient detox hospital at Rolling Hills Hospital.

1 And then I believe between June and July of the same  
2 year, he attended inpatient substance abuse treatment  
3 for approximately 30 days at Mirror Lake Recovery  
4 (indiscernible).

5 Mr. Waddey was also referred in August of  
6 2019 to assessments for further treatment at the  
7 Evelyn Frye Center. Those recommendations from the  
8 Frye Center indicated that he was not a good candidate  
9 for the type of treatment modality which they were  
10 hoping to work with him, which involved examination of  
11 prior -- prior stressors, prior traumas.

12 My conversations with Mr. Waddey's  
13 aforementioned outpatient counselor, Dr. Gary Wilson,  
14 he believed that his work with Mr. Waddey was  
15 beneficial, believes that Mr. Waddey was somewhat  
16 opening up to him, but was also extremely paranoid and  
17 a severely emotional man, as he put it.

18 And Dr. Wilson stated that it was his  
19 opinion that any referrals to any other treatment  
20 would eventually be useless because he doubted that  
21 Mr. Waddey would ever open up to any other treatment  
22 providers or attend any form (indiscernible).

23 Q. Before we move on and talk about the  
24 issue regarding Mr. Waddey's release or detention, I  
25 want to also talk about the second alleged violation

1 regarding positive tests for the presence of THC. Are  
2 you aware of whether or not during the time Mr. Waddey  
3 has been on supervised release he has tested positive  
4 for THC?

5 A. Yes, he has.

6 Q. And is THC the chemical or compound  
7 that's present in marijuana?

8 A. Yes. It's the psychoactive chemical  
9 present in cannabinoidal products, such as marijuana.

10 Q. According to the petition, you indicate  
11 that Mr. Waddey tested positive, it appears, on  
12 several occasions; is that correct?

13 A. Yes, that's correct.

14 Q. The most recent occasion listed is  
15 November 22 of 2019. Has Mr. Waddey continued to be  
16 drug tested since that time or is that the last time  
17 he was drug tested, to your knowledge?

18 A. Mr. Waddey tested negative consistently  
19 between the end of November and between late February,  
20 which was the last drug test that the probation office  
21 conducted with Mr. Waddey prior to this hearing.

22 Q. At some point between August 23, 2019,  
23 and November 22, 2019, did you have any conversations  
24 with Mr. Waddey about the fact that he was having  
25 these positive drug tests for marijuana?

1           A.     Yes. Mr. Waddey and I discussed  
2     (indiscernible) virtually every one (indiscernible).

3           Q.     Did Mr. Waddey ever admit to consuming  
4     marijuana during these conversations?

5           A.     No, not specifically. Mr. Waddey  
6     emphatically denied having used marijuana, per se.  
7     However, Mr. Waddey claims that the only substance  
8     that he used he believed would account for his drug  
9     tests was CBD oil or hemp, which he claims to have  
10    legally purchased from various suppliers in Nashville.

11          Q.     What, if anything, did you advise him or  
12    respond to him regarding whether or not these -- these  
13    items would cause him to have THC present in his  
14    system?

15          A.     So I requested input from a national  
16    testing laboratory, the same laboratory that tests all  
17    the drug samples sent in by the probation office.  
18    That testing laboratory explained that to be legally  
19    available, hemp and CBD products must contain below a  
20    certain minimal threshold of THC.

21                Essentially, no product can be sold which  
22    has enough THC that it would be psychoactive. Or  
23    (indiscernible) upon this lab's test. The lab  
24    essentially was stating to me that they could not  
25    confirm or deny that Mr. Waddey might have been

1 purchasing hemp.

2           What the lab did tell me was that if  
3 Mr. Waddey was using only substances that he'd  
4 obtained legally, then whatever he was obtaining and  
5 using contained more than the legally permissible  
6 level of THC.

7           Mr. Waddey seemed very against making any  
8 admission of using marijuana. Therefore, I thought it  
9 was a dead end to try to lead him to any form of  
10 confession, so to speak. Instead, I explained to  
11 Mr. Waddey that it appeared, based on testing, that  
12 whatever he was using did not meet the definition of  
13 something that should be legally sold. Instead,  
14 (indiscernible) appeared to have illegal amounts of  
15 THC. Therefore, I encouraged him to stop using  
16 whatever it was that he was using.

17           Q.     Do you recall when it was you had this  
18 conversation with Mr. Waddey and warned him about  
19 this --

20           A.     These conversations took place on  
21 multiple occasions with exactly the same talking  
22 points between August and late November.

23           Q.     So at least one of these conversations  
24 occurred between you and Mr. Waddey, and then he  
25 thereafter tested positive for THC again; is that fair

1 to say?

2 A. Yes.

3 MR. SUEDEKUM: Your Honor, I would ask  
4 the Court, is it all right now if I transition to  
5 discussing factors relevant to detention? Or do you  
6 have anything further that you'd like to hear  
7 regarding the alleged petition violations from  
8 Mr. Foster?

9 THE COURT: Well, are your questions  
10 about detention of Mr. Foster as well?

11 MR. SUEDEKUM: Yes, I do have some  
12 questions related to that.

13 THE COURT: Then go ahead and finish your  
14 examination of Mr. Foster and then I'll let Mr. Farmer  
15 cross-examine Mr. Foster for any purpose.

16 MR. SUEDEKUM: Thank you, Your Honor.

17 BY MR. SUEDEKUM:

18 Q. Mr. Foster, on the whole, how would you  
19 describe Mr. Waddey's behavior and compliance with the  
20 conditions of his supervised release from October 2018  
21 to the present?

22 A. I believe that Mr. Waddey has struggled  
23 with some conditions of supervised release. In some  
24 areas, in terms of being willing to report to  
25 probation and submit requested documentation, he's

1     been very good. Mr. Waddey's primary (indiscernible)  
2     has been in his use of substances. And I think that  
3     Mr. Waddey's willingness to engage in other forms of  
4     treatment or his ability to engage in other forms of  
5     treatment has been lacking.

6             Q.     How has the current COVID-19 pandemic  
7     impacted -- first I want to ask you about Mr. Waddey's  
8     behavior while he's on been supervised release during  
9     the pandemic, and then I want to specifically ask you  
10    about how the pandemic has affected your ability to  
11    continue to supervise him.

12                    So first, can you talk a little bit about  
13    Mr. Waddey's behavior during the past few months  
14    specifically?

15             A.     Okay. I would preface this by stating  
16    that since I've met Mr. Waddey, according to records  
17    for virtually the entire time Mr. Waddey has been  
18    under supervision, even before Mr. Waddey  
19    (indiscernible) several individuals, including  
20    treatment providers and myself an abiding interest and  
21    concern about what has been described by some writers  
22    as real political concerns, future war, fear of the  
23    future, concerns about government and conspiracies,  
24    bordering on paranoia.

25                    How this -- how the COVID-19 pandemic

1 appears to have affected Mr. Wadley is, from what I  
2 have heard, very poor. Mr. Wadley, from about the  
3 time of the 15th of March until late April, maintained  
4 regular, if not daily, near daily conversation with me  
5 for several weeks. I preface this, again, by stating  
6 that normally once a warrant has been issued for an  
7 individual's arrest, the probation office pulls back  
8 on certain supervision elements in order to make room  
9 for the marshals to be able to execute the warrant.

10 In this case Mr. Wadley, unbeknownst to  
11 him, after the 17th and then again on the 19th  
12 simultaneously (indiscernible) warrants which he  
13 wasn't aware of. Even within the days between the  
14 15th and the 19th, Mr. Wadley's conversations with me  
15 indicated that he seemed deeply troubled by the  
16 COVID-19 pandemic. He seemed to be emotionally  
17 struggling and paranoid; therefore, I maintained  
18 regular contact with him.

19 And over the course of those days and  
20 weeks, it appeared to me that Mr. Wadley became more  
21 and more concerned, became more and more paranoid. It  
22 seemed that his social interactions with others were  
23 falling away and were limited. He expressed feelings  
24 of fear and anxiety and stress regarding his family  
25 and their health; loneliness regarding his girlfriend



1     having left.  Uncertainty about his job, uncertainty  
2     about his health status.

3                 In fact, on two different occasions  
4     Mr. Waddey believed he himself had contracted  
5     COVID-19, and during the latter one of those, based on  
6     his own description, he may well have, but I don't  
7     believe at any point he tested positive or submitted  
8     himself for testing.

9                 Overall I think that it affected him in a  
10    pronounced way in that it played upon many of his  
11    preexisting concerns and ideas and I would say  
12    interests bordering on obsession, those being  
13    surviving such a possible outcome, surviving what he  
14    believed would be the collapse of society.

15                Q.     Did Mr. Waddey make any request to you  
16    about wanting to leave his residence perhaps related  
17    to the pandemic?

18                A.     Yes.  On more than one occasion, I  
19    believe on approximately the 18th, only a few days  
20    after the incident with his girlfriend, Mr. Waddey  
21    asked if I would allow him to relocate to an  
22    undisclosed wooded location (indiscernible) Middle  
23    Tennessee.  On its face I realize that that request  
24    was a bad idea, but I denied that request.

25                I talked with Mr. Waddey about it as

1     logically as I could, asking him, where would you  
2     stay, how could I supervise you if you were somewhere  
3     else. Where would you even want to go. Mr. Waddey  
4     humored my question, but he told me that he wouldn't  
5     tell me where he wanted to go. It seemed that that  
6     defeated the purpose of wanting to go to an  
7     undisclosed location. Again, I told him that wasn't  
8     possible and encouraged him to stay put. In fact, I  
9     had to claim to Mr. Waddey that if he were to leave  
10    his address permanently or semi-permanently, I was no  
11    longer able to locate him, I would be obligated to  
12    inform the Court and a warrant for his arrest must  
13    surely be issued.

14                    Even after that discussion, Mr. Waddey  
15    asked me for that permission on, I believe, two more  
16    occasions during the month of March and as late as, I  
17    believe, April (indiscernible) asked for permission  
18    to, quote, get the fuck out of Dodge and hang out at  
19    an undisclosed location during the COVID-19 pandemic.

20                    Q.     Mr. Foster, to -- I will state, to  
21    Mr. Waddey's credit, when you told him he wasn't  
22    allowed to do that, did he say that he would agree  
23    to -- he wouldn't do it then?

24                    A.     Mr. Waddey stated during most of those  
25    conversations that he would try to follow the advice

1       that I was giving him, yes.

2               Q.       And to your knowledge did he ever attempt  
3       to leave and go out to an undisclosed location or was  
4       he still living at his residence to the best of your  
5       knowledge?

6               A.       To my knowledge Mr. Waddey never  
7       relocated to any other locations that I was aware of.  
8       During the month of March and April, I conducted two  
9       (indiscernible) home contacts with Mr. Waddey at his  
10      residence, wherein I drove to his residence, parked  
11      across the street and made phone contact with him. He  
12      came to the window, waved to me, and I verified his  
13      location there and we talked for a while.

14              Q.       I want to talk more about that. How has  
15      precautions related to the COVID-19 pandemic impacted  
16      your ability to continue close supervision of an  
17      individual like Mr. Waddey?

18              A.       I think it's significantly impacted the  
19      ability to safely and closely conduct supervision  
20      activities. While a lot of supervision nowadays,  
21      thanks to technology, does consist of phone calls and  
22      emails and other forms of reporting, the probation  
23      office still conducts home contact.

24                      During the course of a normal home  
25      contact, the probation officer will walk into an

1 individual's residence, walk around the residence with  
2 that individual and do what's called a plain view  
3 search or plain view observation, meaning that the  
4 probation office looks to see if (indiscernible) in  
5 the home. If there are any objects that appear to  
6 constitute contraband or violations of supervised  
7 release conditions, the officer is obligated to seize  
8 these items. These home contacts also allow the  
9 probation officer to generally assess how someone  
10 appears to be doing, how well they're doing at home,  
11 how well they appear to be holding up with basic  
12 living necessity, things of that nature.

13           The COVID-19 pandemic has significantly  
14 impacted probation operations in that it is not safe  
15 for probation officers at this time to go into the  
16 residences of people under supervision. The reason  
17 for that is that the average probation officer at any  
18 given day conducting field activities may go into the  
19 homes of anywhere between half a dozen to a dozen  
20 different individuals.

21           And in my case, having the caseload that  
22 I do, those individuals would reside likely not only  
23 all over Nashville, Metropolitan Nashville, but  
24 potentially in various counties across Middle  
25 Tennessee. So I could be exposing myself to the

1 residences of between half a dozen or a dozen  
2 different individuals a day.

3 And when I go into other individuals'  
4 home, if I have exposed myself to anything during my  
5 prior stops, by entering the next individual's home,  
6 I'm potentially exposing them to everything I've been  
7 exposed to.

8 So for those reasons, since only about a  
9 week after the federal warrant for Mr. Waddey's arrest  
10 was issued, I've not been able to go into his home or  
11 the home of anyone that I supervise. Therefore, that  
12 prevents me from being able to see with my own eyes  
13 what's going on in the residence. It also prevents me  
14 from being able to do that (indiscernible) in an  
15 effective manner which (indiscernible). We don't  
16 always announce we're coming.

17 We may just knock on someone's door or we  
18 may call a mere matter of minutes before we arrive or  
19 if someone doesn't answer the door, we may call from  
20 at the door. In case of the COVID-19 pandemic, and  
21 particularly in Mr. Waddey's case, when I arrived at  
22 his residence, I would always call so as not to  
23 exacerbate what appeared to be his previously stated  
24 concerns about individuals coming to his house or  
25 potentially trying to make entry.

1           Q.     And from these conversations and the  
2     modifications you made to your supervision, to your  
3     knowledge, was Mr. Waddey aware of the more limited  
4     way in which you were conducting supervision of him?

5           A.     Mr. Waddey was aware. As the probation  
6     office has made certain changes to supervision, we've  
7     not necessarily sent out a list or any kind of formal  
8     notice to every individual under supervision to any  
9     modifications we're making. Most individuals under  
10    supervised release are learning about these  
11    modifications as they go along.

12                     For example, when I make a visit to  
13    someone and say it's the first time I've visited them  
14    since I've no longer been able to go by their house,  
15    I'll call from outside and explain what's going on.

16                     In Mr. Waddey's case, the discussion  
17    about modification of supervision activity became one  
18    of the focal points of our conversations on the phone  
19    after or around March 15. Mr. Waddey repeatedly asked  
20    me questions along the lines of whether or not the  
21    probation office was essentially ceasing activities  
22    because the government was falling apart.

23                     Many times Mr. Waddey called me, asked me  
24    if I knew anything. He stated on multiple occasions  
25    that he believed that I, as a representative of the

1 federal government, would have some deeper insight  
2 into what was going on with regard to the general  
3 pandemic and what was coming. In those conversations  
4 Mr. Waddey indicated that what he believed was coming  
5 was essentially riots in the streets or a federally  
6 ordered quarantine. So, again, he repeatedly asked me  
7 questions about that.

8 The most humane and I felt helpful  
9 response that I could give Mr. Waddey was to calmly  
10 explain to him that I do not represent the entire  
11 federal government, that I represent part of the  
12 judiciary; and, therefore, I explained to him that we  
13 were changing the way that we did some things in order  
14 to be try to stay safe and healthy during this  
15 pandemic. We weren't ceasing our operation.

16 And I emphasized to him during every one  
17 of those conversations (indiscernible) modification,  
18 the way the probation (indiscernible) his job, he  
19 remained subject to every single one of his supervised  
20 release conditions and had to follow all of them  
21 equally.

22 Q. Based on these conversations, was  
23 Mr. Waddey aware that you had, you know, for at least  
24 some period that you were discontinuing conducting  
25 home visits in which you would actually go inside his

1 home?

2 A. Yes. Mr. Waddey would have been aware of  
3 that since at least mid March.

4 Q. Are you familiar with the United States  
5 Marshals Service report regarding items that were  
6 located in Mr. Waddey's residence when they attempted  
7 to serve the arrest warrant on him?

8 A. Yes, I am.

9 Q. Have you reviewed that report?

10 A. Yes, I have.

11 Q. Are any of the items that were identified  
12 or seen while in Mr. Waddey's home items that you  
13 would have considered either contraband or subject to  
14 confiscation if you had been able to conduct  
15 (indiscernible) inspection?

16 A. Yes.

17 Q. Are there any of the specific items that  
18 you would identify as items that you would have  
19 confiscated?

20 A. Yes. According to the report, on  
21 Mr. Waddey's coffee table was located a water bong  
22 pipe. I'm familiar generally with what those look  
23 like and I would have viewed that as drug  
24 paraphernalia. Also on the report in the bedroom  
25 there were cans of police chemical spray, gas



1 grenades, which I believe was described as the brand  
2 SABRE RED. Also Mr. Waddey was in possession of  
3 airsoft pistols. And while airsoft pistols are not  
4 necessarily something that might deliver a lethal  
5 blow, I have in the past seized those from  
6 individuals' homes because they do appear to be  
7 identical to handguns.

8 He also had allegedly on his possession  
9 two knives, including what was described as a necklace  
10 blade. And I believe that had I become aware of  
11 anything like a necklace blade or a blade that  
12 appeared to be anything other than something someone  
13 would use at a regular workplace, those likely would  
14 have been seized as evidence of contraband as well.

15 Q. The basis for seizing those items, would  
16 that be because they were potential dangerous weapons?

17 A. Yes, potential dangerous weapons to  
18 another person. In the case of all of those items  
19 being together in one place, given the particulars of  
20 Mr. Waddey and his supervision, they would certainly  
21 cause alarm had I found them in the course of a  
22 regular home contact.

23 MR. SUEDEKUM: Your Honor, I don't think  
24 I have any further questions for Mr. Foster at this  
25 time.

1 THE COURT: Mr. Farmer, any  
2 cross-examination?

3 MR. FARMER: Yes, Your Honor. Thank you.

4 **CROSS-EXAMINATION**

5 BY MR. FARMER:

6 Q. Mr. Foster, can you hear me?

7 A. I can.

8 Q. Okay. Do you have your -- your petition  
9 in front of you?

10 A. Yes.

11 Q. Do you have the incident report that you  
12 referenced from the police department that I had filed  
13 as an exhibit also in front of you?

14 A. I have the incident report. I did not  
15 see which one you filed as the exhibit, but the one I  
16 have says Incident Report at the top, yes.

17 THE COURT: Is it the Incident --

18 MR. FARMER: Is it a five-page --

19 THE COURT: Incident report from March 15  
20 of 2020?

21 THE WITNESS: Yes.

22 THE COURT: All right. I think -- I  
23 believe it's --

24 MR. FARMER: I'm going to ask --

25 THE COURT: Go ahead, Mr. Farmer.

1 BY MR. FARMER:

2 Q. I'm going to ask you about those. First,  
3 I just wanted to clarify, have you spoken personally  
4 with Mrs. Andrea Stones?

5 A. No, I have not.

6 Q. When was the last time you spoke with  
7 Mr. Waddey?

8 A. I believe that my last conversation with  
9 Mr. Waddey was in late April, I believe approximately  
10 on the 24th. I believe he left voicemail messages for  
11 me early on the morning on which he was arrested, but  
12 I don't believe we had telephonic contact that date.

13 Q. Okay, all right. Okay. So I want to  
14 talk about the violations that you allege in your  
15 petition. And I just want to take them in order,  
16 okay. So I want to focus first on violation No. 1.  
17 Are you with me?

18 A. Yes.

19 Q. Okay. So the narrative that you give  
20 here, I'm looking specifically at page 2 of the  
21 violation report, this narrative -- and you say in  
22 here it was obtained largely from an incident report  
23 prepared by MNPD. Do you see that?

24 A. Yes.

25 Q. Do you see where you represent that?

1           A.     Yes.

2           Q.     Okay, all right. And is that the same  
3 incident report that you have in your possession?

4           A.     Yes.

5           Q.     Okay. And so is it your understanding,  
6 based from the incident report, that the police were  
7 called out there that night and didn't make an arrest;  
8 is that correct?

9           A.     That they did not make an arrest, is that  
10 what you said?

11          Q.     Yes.

12          A.     Yes, that's my understanding.

13          Q.     And that they spoke with both Mrs. Stones  
14 and Mr. Waddey at the scene; is that correct?

15          A.     Yes.

16          Q.     And that this was at Mr. Waddey's home;  
17 correct?

18          A.     Yes.

19          Q.     And it was a little unclear to me from  
20 your testimony whether you were saying that you  
21 believed that Mr. Waddey had been drinking at that  
22 time. And so -- so if you could clarify that for me.  
23 Are you saying that you believe Mr. Waddey had been  
24 drinking when the police showed up?

25          A.     No, I don't have evidence of him having

1       been consuming alcohol when the police arrived, no.  
2       And that was not my reading of the report.

3               Q.       Okay. And that -- and that's not my  
4       reading either, but it was a little -- a little fuzzy  
5       to me. Okay.

6               A.       I believe -- if I can clarify, I believe  
7       that I was referencing to the statement made by  
8       Ms. Stone to police.

9               Q.       Okay. Are you crediting that statement?

10              A.       I'm stating that she said it. I don't  
11       have any other independent evidence to say whether or  
12       not it was true.

13              Q.       Did you ask Mr. Wadley if he had been  
14       drinking while -- while he was doing Brazilian jujitsu  
15       with Ms. Stone?

16              A.       No, we did not discuss whether he had  
17       been using alcohol prior to arriving at his parents'  
18       residence later during the same evening.

19              Q.       Okay. But it's your understanding that  
20       he left while the police were -- were still there?

21              A.       I'm not entirely clear on that point.

22              Q.       Okay. So it's possible he left while the  
23       police were still there?

24              A.       Well, I wrote in my report, which is  
25       based on a note that I made, that after -- that before

1 police departed he left to spend the rest of the  
2 evening at his parents' house. So I believe he maybe  
3 left while they were still there.

4 Q. Okay. Certainly if he was drunk or had  
5 used alcohol, you wouldn't expect the police to allow  
6 him to drive away, would you?

7 A. I couldn't speculate as to that, but I  
8 would concede the point you're making.

9 Q. Okay. Look at the incident report for  
10 me, if you can. And specifically page 4. Tell me  
11 when you're there.

12 A. I'm there.

13 Q. And I want to -- I want to focus on the  
14 paragraph -- and this paragraph didn't make the  
15 petition. It looks like the rest of it did, but this  
16 specific paragraph did not. The very last paragraph  
17 said due to conflicting statements. Do you see that?

18 A. Yes, I do.

19 Q. Okay. And I'm going to read it and you  
20 tell me if I've read it correctly. Due to conflicting  
21 statements, lack of physical injuries, and lack of any  
22 witnesses, officers were unable to prosecute on the  
23 victim's behalf.

24 Did I read that right?

25 A. Yes, that's correct.

1           Q.     Okay. Are you familiar with Tennessee  
2 law regarding domestic violence incidents?

3           A.     Not intimately, no.

4           Q.     Are you familiar generally in your role  
5 as a probation officer?

6           A.     I would not dare to speak to my knowledge  
7 of the law (indiscernible).

8           Q.     Okay. So the fact that Mr. Waddey was  
9 not arrested after the police investigation, does that  
10 tell you anything as a probation officer?

11          A.     It would appear to be consistent with the  
12 statement made here, that they did not see visible  
13 injuries and there were no other witnesses.

14          Q.     Right. They didn't take her down -- she  
15 didn't request to go down to get a warrant that  
16 evening, did she?

17          A.     No, I don't believe so.

18          Q.     Okay. Are you familiar with Tennessee  
19 Code Annotated 36-3-619?

20          A.     No, I am not.

21          Q.     Are you familiar with the mandatory  
22 arrest privilege -- or, I'm sorry. Strike that, let  
23 me start over.

24                   Are you familiar with the mandatory  
25 arrest provision in Tennessee law regarding domestic

1 violence incidents?

2 A. No, I'm not.

3 Q. Okay. But in any event, you agree with  
4 me that on the -- on the night at issue, March 15, the  
5 police were called out there, they did an  
6 investigation, and they didn't make any arrest;  
7 correct?

8 A. Yes.

9 Q. Okay. The next day did Mr. Waddey  
10 discuss this event with you, is that correct, on  
11 March 16?

12 A. That's correct.

13 Q. Okay. And then also that day or possibly  
14 the next day Mr. Waddey discussed that he'd been  
15 served with a temporary order of protection; is that  
16 correct?

17 A. I believe on the 17th Mr. Waddey stated  
18 that he had been informed by representatives of  
19 Davidson County Sheriff's Office that there did exist  
20 a temporary order of protection, but I don't believe  
21 he stated that he was served.

22 Q. Okay. Have you seen that temporary order  
23 of protection?

24 A. No, I have not.

25 Q. Okay. Do you know what a temporary order



1 of protection is?

2 A. Yes, I do.

3 Q. Okay. So I started to ask you to explain  
4 it to me, but maybe let me do it this way. You  
5 understand that a temporary order of protection is  
6 issued ex parte; is that correct?

7 A. Yes.

8 Q. It's issued without the benefit of a  
9 hearing; is that right?

10 A. It's my understanding that they are  
11 issued and then an individual is served and then at a  
12 subsequent date a hearing will be set regarding  
13 (indiscernible).

14 Q. That's right. That's exactly right. But  
15 in the meantime the temporary order of protection  
16 requires the person, once served, to not have any  
17 contact with the alleged victim; is that your  
18 understanding?

19 A. That's my understanding.

20 Q. Okay. And then looking back at your --  
21 at the petition, you report in here that you also told  
22 Mr. Waddey that he's not to have any contact with  
23 Ms. Stones as of March 17; is that right?

24 A. Yes.

25 Q. Okay. To your knowledge has he had any

1 contact with Ms. Stones?

2 A. No.

3 Q. Okay. To your knowledge is the order  
4 still in effect? Has there been a hearing as to the  
5 merits of the order or not?

6 A. Not that I'm aware of.

7 Q. Okay. To your knowledge has anyone filed  
8 any allegations or made any claims that Mr. Waddey has  
9 violated this petition in any way as it relates to  
10 Mrs. Stone?

11 A. Not that I'm aware of, no.

12 Q. Okay. Mr. Suedekum asked you about the  
13 arrest warrant alleging domestic assault. Do you see  
14 that?

15 A. Yes.

16 Q. Okay. What date was that sworn out? And  
17 I'm not trying to trick you. It's March 17 at 9:51 in  
18 the morning --

19 A. The 17th, yes.

20 Q. -- do you see that at the bottom?

21 A. Yes.

22 Q. Do you see that? Okay, all right. All  
23 right. And that is a good two days after the incident  
24 occurred; is that right?

25 A. Yes.

1           Q.     A day after the police were out there  
2     investigating? Or two days after that; is that  
3     correct?

4           A.     Yes.

5           Q.     Okay. You had said -- and I believe you  
6     were asked if a state court judge had found probable  
7     cause. Do you see who issued this warrant, who signed  
8     it?

9           A.     I believe (indiscernible).

10          Q.     Do you know who that is?

11          A.     No, I don't know him.

12          Q.     Do you know if he's a judge or a night  
13     court magistrate?

14          A.     I don't know.

15          Q.     You don't know that?

16          A.     It says Metropolitan General Sessions.

17          Q.     All right. It says slash commissioner;  
18     right?

19          A.     Slash commissioner, yes.

20          Q.     Okay. So it could be a commissioner?

21          A.     Yes. And I see that there is, underneath  
22     his name stamped partially obscured, judicial  
23     magistrate.

24          Q.     Judicial magistrate, okay. Okay.

25                 Let's move on to No. 2. You must refrain

1 from unlawful use of a controlled substance. And this  
2 was separate and apart from the violation alleging  
3 alcohol use; is that correct?

4 A. Yes.

5 Q. Okay. So I want to talk about these  
6 test -- positive test dates that you have on here.  
7 First of all, how frequently was Mr. Waddey being  
8 tested, being drug tested?

9 A. Very frequently. At times several times  
10 a week.

11 Q. Several times a week? Okay. And you've  
12 listed all the positives that he had during -- during  
13 this time period; is that correct?

14 A. Yes.

15 Q. Do any of these -- these tests on these  
16 dates at issue, did any of these have to be  
17 resubmitted or retested in any way?

18 A. I don't believe so. I know that when I  
19 asked for an analysis of a number of these, I asked  
20 for a comparative analysis, wherein the lab was  
21 supposed to tell me whether or not he had used  
22 marijuana anew, (indiscernible) certain tests, but I  
23 don't believe it was a reanalysis (indiscernible). I  
24 believe it was a comparison of THC levels.

25 Q. A comparison of THC levels?

1           A.     Yes, I believe so.

2           Q.     Did you get that back?

3           A.     Yes, I did.

4           Q.     What did it show? While you're looking  
5 at that, may I ask some questions at the same time?

6           A.     I had to get to the right page, I  
7 apologize.

8           Q.     Okay.

9           A.     It states that it was the opinion of the  
10 writer, Pat Pizzo, Director of Toxicology at Alere  
11 Toxicology Services, that Mr. Wadley used marijuana or  
12 a product containing THC prior to each of the  
13 collections listed. And those that were listed in  
14 this report that I received back from Alere were  
15 8-23-19, 8-26-19 and 10-7-19.

16          Q.     Okay. And what about the other four?

17          A.     I didn't request analysis for those, not  
18 beyond the analysis of whether or not they contained  
19 THC.

20          Q.     Okay, all right. So a couple questions  
21 about this issue, then. So you state in your petition  
22 that you've informed Judge Crenshaw of this already;  
23 is that right?

24          A.     I had previously informed Judge Crenshaw  
25 of, I believe, the majority of those positive tests.

1           Q.     And he requested no action so that  
2     Mr. Waddey could go to out -- could continue receiving  
3     outpatient counseling; is that correct?

4           A.     That's correct.

5           Q.     Okay. And that was your recommendation  
6     as well; is that right?

7           A.     Yes.

8           Q.     Okay. And I think you told us that he's  
9     been in outpatient counseling pretty much  
10    consistently; correct?

11          A.     Yes, he has.

12          Q.     Okay. So he's in outpatient counseling;  
13    is that right?

14          A.     Up until the time of these arrest, I'm  
15    not certain. I believe that when I was speaking with  
16    him in March and April he'd indicated it had been some  
17    time since his last outpatient counseling, but that  
18    point of our conversation was unclear. So I would say  
19    that he was, at least until March, still in outpatient  
20    counseling.

21          Q.     Okay. And who -- where was he -- who was  
22    he -- where was he receiving outpatient counseling?

23          A.     I believe that up until a few months  
24    before that he'd been seeing Gary Wilson. But he had  
25    more recently, in February, told me that he had gone

1 to another specialist whose name I do not recall. And  
2 that he was still continuing to receive medication  
3 through Dr. Kyger.

4 Q. So Dr. Kyger -- and who is Dr. Kyger?

5 A. I believe Dr. Kyger is a psychiatrist who  
6 prescribes to him psychiatric medication.

7 Q. Okay. And your information is that  
8 Dr. Waddey currently has a doctor/patient -- not  
9 Dr. Waddey, excuse me, let me start over.

10 Your information is that Mr. Waddey  
11 currently has a doctor/patient relationship with  
12 Dr. Kyger; is that correct?

13 A. I believe so.

14 Q. Okay. So but in any event Mr. Waddey has  
15 always denied that he used marijuana; is that right?

16 A. Yes.

17 Q. During your supervision he's never been  
18 arrested with marijuana, has he?

19 A. No.

20 Q. You've never found marijuana in his  
21 house, have you?

22 A. No.

23 Q. On the raid that you discussed earlier  
24 on -- on May 7 when the police came in, there was no  
25 marijuana there then, was there?

1           A.     None in the report that I saw, no.

2           Q.     Okay. Was CBD oil found?

3           A.     I don't believe that any was listed in  
4 the report.

5           Q.     Okay. Have you looked at any pictures  
6 from the -- from the raid?

7           A.     No, I have not.

8           Q.     If I were to tell you or if a witness  
9 were to testify that the bong that you referenced was  
10 found immediately next to CBD oil, would you have any  
11 reason to dispute that?

12          A.     No.

13          Q.     Okay. All right. Let's move on to  
14 Violation No. 3, the refrain from use of alcohol. And  
15 so we've already kind of cleared out whether this  
16 alleged assault, whether we think alcohol was a  
17 fueling factor of that; correct? We've already talked  
18 about that.

19          A.     We have discussed that.

20          Q.     Okay. So -- and I'm looking at your --  
21 your allegations here. And you talk about a half  
22 point of vodka with a relapse, and this was reported  
23 to Judge Crenshaw, and both you and Judge Crenshaw  
24 requested no action so that he could continue to do  
25 outpatient counseling. And is that similar to the



1 issue we talked about above with the -- with the THC  
2 positive test?

3 A. Yes.

4 Q. Okay. So the new issue of alcohol is  
5 this issue where he told you that -- and tell me if  
6 I've got it wrong. He told you that he'd gotten into  
7 an argument with a -- some sort of scuffle, however  
8 you want to describe it, with his girlfriend. He  
9 left, went to his parents' house and said he drank  
10 alcohol at his parents' house; is that right?

11 A. Yes, that's correct.

12 Q. Okay. This outpatient treatment he has  
13 been involved in, does that include alcohol treatment  
14 as well?

15 A. The treatment that he received via his  
16 outpatient counselor and psychiatrist, as it was  
17 described to me, was intended to address the totality  
18 of his issues, which are co-occurring. A co-occurring  
19 issue is when someone suffers from an issue with a  
20 substance, as well as any other underlying mental  
21 health diagnosis.

22 Q. Okay. How many times has he been  
23 screened for alcohol?

24 A. Mr. Waddey was screened for alcohol  
25 concurrent to every one of his drug tests.

1           Q.     Okay. Has he ever had a negative -- has  
2 he ever had negative screens?

3           A.     If you'll give me a moment to review my  
4 notes on that information, please.

5                     According to my notes, he tested positive  
6 for alcohol on April 15 of 2019 and he tested positive  
7 for alcohol on August 14 of 2019.

8           Q.     Okay. And so you -- and you discussed  
9 the positive of August 14 of 2019 in your petition,  
10 but I was asking about negative screens. Am I correct  
11 as far as the remaining tests were negative?

12          A.     Yes. He was tested at a frequency of  
13 very often two or three times a week, so if it's not  
14 listed here, the tests were negative.

15          Q.     You don't report the negative ones, you  
16 report the positive ones; is that right?

17          A.     That's correct.

18          Q.     Okay. Okay. During the May 7 raid of  
19 his house, was any alcohol found?

20          A.     I don't believe any was listed in the  
21 report that I got, no.

22          Q.     You're not aware of any alcohol being  
23 found?

24          A.     I'm not aware of any.

25          Q.     Okay. How long has Mr. Waddey been on

1 supervision, not just with you, but all in all?

2 A. Mr. Waddey initiated his supervision term  
3 on June 1 of 2018.

4 Q. And how long is his supervision?

5 A. His supervision was a two-year term that,  
6 I believe, was originally scheduled to conclude on  
7 May 31 of 2020.

8 Q. So then 10 days or 12 days, this  
9 violation notwithstanding, he was due to be finished  
10 in less than two weeks; is that fair to say?

11 A. Yes.

12 Q. Okay. These are Grade C violations, is  
13 that right, or 5C violations?

14 A. That's correct.

15 Q. Okay. I want to talk a little bit about  
16 this concept that Mr. Waddey is, I guess,  
17 conspiracy-minded. Are you familiar with what I'm  
18 talking about?

19 A. Yes, I am.

20 Q. Okay. You're not saying that being  
21 conspiracy-minded is illegal, are you?

22 A. No.

23 Q. You're not saying that being  
24 conspiracy-minded is a violation of Mr. Waddey's  
25 supervision, are you?

1           A.     No.

2           Q.     I would say, frankly, that a significant  
3     portion of our country right now is fairly  
4     conspiracy-minded. Would you agree with that?

5           A.     I can see that.

6           Q.     Okay. You also discussed that the  
7     COVID-19 makes it more difficult to supervise  
8     Mr. Waddey; is that right?

9           A.     Yes.

10          Q.     Is it fair to say that Mr. Waddey is very  
11     concerned about contracting this virus?

12          A.     Yes.

13          Q.     Okay. You discuss he would ask you  
14     questions about government shutdown and those sorts of  
15     things. Is it fair to say that he was concerned about  
16     what the effect of the virus was having on the  
17     government?

18          A.     Yes.

19          Q.     He talked to you all the time, didn't he?

20          A.     Very regularly.

21          Q.     He called you almost daily, I think, at  
22     some point you said; is that right?

23          A.     Yes.

24          Q.     Did he view you as a source of  
25     information inside the federal government that could

1 help give him some insight as to what was really  
2 happening with this COVID-19 pandemic?

3 A. No.

4 Q. You don't think so?

5 A. No. As I explained to Mr. Wadley on  
6 multiple occasions, my knowledge of what the overall  
7 federal government and the state government was doing  
8 often came at the same rate of speed that it would for  
9 him. I, like I encouraged Mr. Wadley to do and I did  
10 myself, would listen to or read about daily federal  
11 government briefings and listen to or read about state  
12 briefings.

13 And that was the majority of information  
14 that I would receive, as I emphasized to Mr. Wadley.  
15 I did not have any inside line to information, nor was  
16 I receiving information at a faster rate of speed.

17 Q. And you understand that and I understand  
18 that, but Mr. Wadley kept asking you for information;  
19 is that right?

20 A. That's correct.

21 Q. Okay. And so -- and maybe I  
22 misunderstood, but, you know, I kind of felt like that  
23 the tone of some of these questions about the CO-VID  
24 shutdown and the government, you know, not sending  
25 probation officers out in the field anymore is that

1 Mr. Waddey knew nobody was checking up on him so he  
2 could do more stuff.

3 But just to reiterate, there was no  
4 alcohol or marijuana found in his home; is that right?

5 A. Not as far as I know, no.

6 Q. Okay. The items in the home, you talked  
7 about this water bong pipe that you've told me that  
8 you don't know if it was CBD oil next to it or not;  
9 correct?

10 A. That's correct.

11 Q. Okay. And then the -- I think there was  
12 chemical spray and airsoft pistols and some knives.  
13 And I understand you to tell me that you would have  
14 confiscated those because of a guy like Mr. Waddey,  
15 his history, you would have had concerns about him  
16 having that stuff; is that fair?

17 A. Yes.

18 Q. Are you saying, though -- you're not  
19 saying that the airsoft pistols are illegal, per se,  
20 are you?

21 A. No.

22 Q. Or the knives, that they're illegal per  
23 se, are you?

24 A. No. Although, I can -- I've not seen the  
25 knives. I couldn't tell you about their legality.

1           Q.     That's fair. And that the police  
2 chemical spray, the chemical spray that it's illegal  
3 per se, are you?

4           A.     No.

5           Q.     Are these things that are commercially  
6 available, to your knowledge?

7           A.     While several of them sound commercially  
8 available, I do remember that there was a notation  
9 about the chemical spray that I believe stated police  
10 grade or police type. So I'm not sure about the  
11 legality of his ownership of that. Again --

12          Q.     You don't know one way or the other about  
13 that?

14          A.     No.

15          Q.     But in any event, Mr. Wadley wasn't  
16 charged with any crimes based on what was found in his  
17 house, was he?

18          A.     No, not that I'm aware of.

19          Q.     Okay. All right. He talked to you about  
20 going to live -- I think he described it as in the  
21 middle of a state park. Do you remember that?

22          A.     Yeah, that was about as far as he would  
23 narrow it down, yes.

24          Q.     Okay. All right. And tell me if I'm  
25 wrong, but it sounds like you were describing that

1 more as he wanted to go kind of be in the woods away  
2 from everybody, off the grid, didn't want anybody to  
3 know where he was. Is that fair enough?

4 A. Yes, that was my impression.

5 Q. Okay. But I just think it bears honing  
6 in on. He asked you if he can do this; is that right?

7 A. Repeatedly, yes.

8 Q. And you told him no; is that right?

9 A. That's correct.

10 Q. And he didn't do it, did he?

11 A. No, not as far as I know.

12 MR. FARMER: Okay. All right. Those are  
13 my questions.

14 THE COURT: Mr. Foster, this is  
15 Judge Holmes. Do you know where Mr. Waddey was living  
16 at the time that he was arrested?

17 THE WITNESS: Mr. Waddey?

18 THE COURT: Yes.

19 THE WITNESS: I believe he was at his  
20 address of record, which is in the Crieve Hall area of  
21 Nashville.

22 THE COURT: Was that the residence where  
23 his girlfriend and his children also live?

24 THE WITNESS: Yes, up until, I believe,  
25 March 15, after which the girlfriend took their



1 children and resided elsewhere.

2 THE COURT: All right.

3 All right. Any other questions for  
4 Mr. Foster as a result of my questions, either by  
5 Mr. Suedekum or Mr. -- Mr. Suedekum, you first. Any  
6 other redirect?

7 MR. SUEDEKUM: Your Honor, I do have a  
8 few redirect questions.

9 **REDIRECT EXAMINATION**

10 BY MR. SUEDEKUM:

11 Q. Mr. Foster, you were asked about  
12 Mr. Waddey and some of his conspiracy theories. In  
13 your opinion, what is the significance of those,  
14 the -- I will use paranoia about certain world events.  
15 What is your opinion of the significance of that as it  
16 relates to Mr. Waddey's supervision?

17 A. Mr. Waddey's conspiracy beliefs and ideas  
18 seem to impact his willingness to trust or take at  
19 face value the input of the probation office or even  
20 the reasons for some of his supervised release  
21 conditions. It also, I believe, intercepted, quite  
22 unfortunately, with what our country has experienced,  
23 and that it seemed to play into and validate or appear  
24 to validate several of his beliefs.

25 On many occasions he expressed to me that

1 he did not feel that he could adequately protect  
2 himself from circumstances that he firmly believed  
3 were coming into being around him, such as the notion  
4 that because he himself had stockpiled various  
5 resources such as food and other items, that he would  
6 have to protect himself and those items from other  
7 individuals in the community who would, inevitably,  
8 come to take them from him. That, to me, seemed of  
9 concern, of significant concern.

10 On several occasions he told me that he  
11 saw what he described as cars full of young people of  
12 minority dissent driving around casing homes. And he  
13 stated emphatically that he knew what it looked like  
14 when someone cased a home and that he would protect  
15 himself, if he had to, from anyone who tried to  
16 intrude.

17 He also stated on one occasion that his  
18 mother had brought him some food. And in the  
19 conversation with me he seemed upset about it, that  
20 she'd done so in plain view of anyone in the  
21 neighborhood who might have seen it because it was  
22 further evidence that he had things that he believed  
23 others would want.

24 He believed that there were food  
25 shortages that would occur and were already occurring.

1 He described sincere belief that society was already  
2 collapsing and that it was coming soon. He vaguely  
3 described other alleged sources of information and  
4 intelligence, as he called it. People -- at least one  
5 person, allegedly some governmental source or  
6 governmental employee that he knew other than me, who  
7 was telling him that things would happen very soon and  
8 that things were going to get really, really bad.

9 On several occasions that we spoke or  
10 that I sometimes just listened, Mr. Waddey sounded  
11 distraught to the point that I believed that based  
12 upon the way he was talking and the manner of voice he  
13 may have even been intoxicated already.

14 All of these things create significant  
15 concern for me that Mr. Waddey's existing world view,  
16 which is well-documented, is coalescing with the world  
17 around us, and that potentially he would either not  
18 heed my instructions to stay put or that he might  
19 misinterpret things around him as being actual danger,  
20 that he might have to (indiscernible) or that he might  
21 seek to somehow harm himself.

22 Now, again, I'm not saying that he did  
23 any of these things. I'm expressing that these were  
24 my concerns, in answer to your question.

25 Q. You were asked about testing him for

1 using alcohol. To your knowledge, how long does  
2 alcohol stay in a person's system normally?

3 A. Less than 72 hours. Generally not more  
4 than 30 something hours or 48 hours, in my experience.

5 Q. So, in contrast to, say, marijuana if  
6 someone were to consume alcohol, it would leave their  
7 system and leave no traces much more rapidly; is that  
8 fair to say?

9 A. Yes.

10 Q. Are you familiar with where Mr. Waddey  
11 had the special condition that he was not to consume  
12 any alcohol while on supervised release?

13 A. Yes. He had previously identified issues  
14 of abusing alcohol. There were documented occasions  
15 where he told treatment providers that admittedly he  
16 had some fear issues of alcohol before, and I believe  
17 there was an occasion that (indiscernible) sentencing  
18 date before Judge Crenshaw where he had apparently  
19 consumed alcohol in excess the evening before and was,  
20 I believe, deemed to have been intoxicated at the time  
21 of that sentencing; therefore, it was forestalled to  
22 another date.

23 Q. You were asked some questions about  
24 whether or not the marshal found any drugs or alcohol  
25 anywhere in the residence. To your knowledge, were

1 the marshals conducting a full search of the premises,  
2 as if they were conducting a search warrant or were  
3 they there to locate Mr. Waddey?

4 A. I believe they were there to locate  
5 Mr. Waddey.

6 MR. SUEDEKUM: Your Honor, I don't have  
7 any further questions for Mr. Foster. But I would, at  
8 this time, move to enter the warrant affidavit as  
9 Government's Exhibit 1. I don't believe I actually  
10 entered that into evidence.

11 THE COURT: All right. Any response,  
12 Mr. Farmer, to the government's request to admit the  
13 warrant affidavit into evidence?

14 MR. FARMER: No, Your Honor.

15 THE COURT: All right. That will be  
16 admitted as Government's Exhibit 1.

17 (Government Exhibit No. 1 was admitted.)

18 THE COURT: Any recross, Mr. Farmer?

19 MR. FARMER: I do, Your Honor.

20 **RECROSS-EXAMINATION**

21 BY MR. FARMER:

22 Q. Mr. Foster, following up on -- on  
23 Judge Holmes' questions about where Mr. Waddey was  
24 when he was arrested, your information is that he was  
25 at the house that he'd been living in all this time;

1 is that right, over in Crieve Hall?

2 A. I think I can answer with more  
3 specificity. At the moment of Mr. Waddey's arrest he  
4 had returned to the residence in Crieve Hall in his  
5 vehicle. To answer the (indiscernible) he'd been  
6 living, as far as I'm aware, he has been living  
7 steadily at the residence in Crieve Hall since --

8 Q. So when the marshals showed up -- I'm  
9 sorry. I didn't mean to talk over you. Go ahead.

10 A. It was my understanding that since the  
11 events of March 15 he had been residing steadily at  
12 that residence and that earlier on the morning of his  
13 arrest he had left to go to work and that he returned  
14 to that residence after he received notification  
15 through his telephone that his doors had been  
16 breached, and I believe he saw on the house's external  
17 video camera that there were police vehicles there.  
18 Therefore, he returned. The marshals had already made  
19 entry to the residence, saw him and placed him under  
20 arrest.

21 Q. Okay. I gotcha. So to be clear, when  
22 the marshals showed up to his house, he wasn't there;  
23 correct?

24 A. Not initially, yes, that's correct.

25 Q. Not initially. When the marshals showed

1 up, he wasn't there; correct?

2 A. Correct.

3 Q. Okay. When they broke the door in, he  
4 wasn't there then either; is that right?

5 A. As far as I know, yes, that's correct.  
6 That's the (indiscernible) events.

7 Q. In fact, your information is he was at  
8 work when this occurred; is that right?

9 A. I know that he wasn't at the residence.  
10 And I base him being at work on a voicemail message  
11 that he left for me after he received notification  
12 through his telephone that there had been what he  
13 believed at that time to be a break-in. He had stated  
14 that he had been at work.

15 Q. Okay, all right. He came back, saw the  
16 police officers; is that correct?

17 A. I believe so.

18 Q. Okay. Did he flee?

19 A. I saw no mention of that in any reports,  
20 no.

21 Q. Okay. Did he fight with the police?

22 A. No, I saw no record of that.

23 Q. These things that you mentioned were  
24 contraband, some of those things were on his person;  
25 correct?

1           A.     That's correct.

2           Q.     Did he attempt to use any of these things  
3 that you've described as contraband against the police  
4 or the marshals?

5           A.     No, I saw no record of that  
6 (indiscernible).

7           Q.     In fact, they said that he -- he arrived  
8 at the home and was taken into custody without  
9 incident; is that right?

10          A.     Yes.

11               MR. FARMER:   Okay.   All right.   Those are  
12 my questions.

13               THE COURT:   All right.

14               MR. FARMER:   Oh.   And I guess,  
15 Your Honor, before I stop, I would like to move the  
16 incident report in as the next numbered exhibit.

17               THE COURT:   All right.   That will be the  
18 defendant's exhibit.   Any response to the request to  
19 admit that incident report, Mr. Suedekum?

20               MR. SUEDEKUM:   No, Your Honor.

21               THE COURT:   All right.   That will be the  
22 defendant's Exhibit 1.

23               (Defense Exhibit No. 1 was admitted.)

24               THE COURT:   All right.   Any other  
25 witnesses, Mr. Suedekum?



1                   And, Mr. Foster, if you'd go ahead and  
2                   mute your line, that would be great. Thank you.

3                   Any other witnesses, Mr. Suedekum?

4                   MR. SUEDEKUM: Yes, Your Honor. Deputy  
5                   Michael, Deputy Marshal Michael Etheridge.

6                   THE COURT: All right. Marshal, if you  
7                   would raise your right hand for me, please.

8                   **MICHAEL ETHERIDGE**

9                   called as a witness, after having been first duly  
10                  sworn, testified as follows:

11                  THE COURT: You can lower your hand,  
12                  thank you. And if you'd go ahead and state your name,  
13                  please, and spell your last name for us -- first and  
14                  last name, please.

15                  THE WITNESS: Mike -- Michael Etheridge,  
16                  E-t-h-e-r-i-d-g-e.

17                  THE COURT: All right. Go ahead,  
18                  Mr. Suedekum.

19                  **DIRECT EXAMINATION**

20                  BY MR. SUEDEKUM:

21                  Q.        Afternoon, Deputy Etheridge. Could you  
22                  just briefly explain how you are connected to this  
23                  proceeding in Mr. Waddey's case?

24                  A.        Yes. I was assigned the supervised  
25                  release warrant for this case and was in charge of the

1       arrest attempt on May 4.

2               Q.       And can you describe what happened on  
3       that morning?

4               A.       Yes. We briefed prior to going to the  
5       residence, and I provided information to our Task  
6       Force that was provided to me, which included  
7       statements that Mr. Waddey had made in the past and  
8       other information, including statements that were  
9       attributed to him concerning his desire to kill or  
10      harm law enforcement. And statements provided by the  
11      probation officer that included his delusional beliefs  
12      about the government and law enforcement, his  
13      increasing paranoia, and other information from the  
14      earlier complaint in this case, with statements  
15      attributed to Mr. Waddey concerning that the police  
16      were lucky they got the drop on him.

17                      So with this information, we briefed  
18      prior to the arrest attempt and then proceeded to the  
19      house at 602 Dunston Drive.

20              Q.       What happened when you got to the  
21      residence?

22              A.       We knocked and announced, identified  
23      ourselves as marshals with an arrest warrant. We did  
24      that for several attempts and received no response, so  
25      we breached the door and entered to search for

1 Mr. Waddey.

2 Q. Did you clear the home to see if there  
3 were any individuals present?

4 A. We did. With -- based on the arrest  
5 warrant for Mr. Waddey, we searched the residence for  
6 any place that he could hide.

7 Q. Approximately what time in the morning  
8 was this?

9 A. It was after 7:00. I don't know the  
10 approximate time, but it was between, I guess,  
11 7:30 and 8:00.

12 Q. When you made your initial sweep, did you  
13 find any people present in the home?

14 A. We didn't, no.

15 Q. As you were searching for Mr. Waddey, you  
16 said you were looking anywhere that he might be. Is  
17 it fair to say that when you're serving this type of  
18 arrest warrant, you do not conduct a thorough search  
19 like you would if you were performing (indiscernible)?

20 A. That's correct. We would search places  
21 like a bedroom closet, but we wouldn't search a  
22 shoebox in that bedroom closet.

23 Q. When you were searching the residence for  
24 Mr. Waddey, were you there to try and find evidence of  
25 alcohol or marijuana?

1           A.     We were not. We were not there in a  
2 capacity of a search for evidence. We were there in a  
3 capacity to arrest Mr. Waddey.

4           Q.     During your effort to locate Mr. Waddey  
5 inside the residence, did you come across any items or  
6 weapons of which you took note?

7           A.     I did. When we -- upon entering, when we  
8 entered the living room area and initially scanned the  
9 room, I did note the water bong on the coffee, living  
10 room table. When we were searching under mattresses,  
11 we noticed the airsoft pistols. In cabinets were  
12 knives, and there were -- there was a holster like for  
13 a pistol on the -- in the living room on the couch.  
14 There were things of that nature. And in one of the  
15 bedrooms there were -- I'm sorry, go ahead.

16          Q.     You mentioned that there was a holster.  
17 To be clear, did you find any actual firearm in the  
18 residence?

19          A.     No, we didn't.

20          Q.     Did you find any --

21          A.     In one of the rooms there -- no  
22 ammunition, but in one of the rooms we did find the  
23 pepper spray canisters that were a gas grenade  
24 aerosol-type spray, and a gas mask on one of the  
25 dressers and a battering ram, a breaching tool used

1 for entering residence, much like we used in that same  
2 room.

3 Q. Starting with the airsoft pistol, you  
4 mentioned that you found those under a mattress. How  
5 many were there?

6 A. There were two that we found.

7 Q. In attempting to locate Mr. Waddey, why  
8 would you look under the mattress?

9 A. We've had instances where people hollow  
10 out box springs and lay under the mattress in the box  
11 springs.

12 Q. Could you briefly just describe what an  
13 airsoft pistol is. It's not an actual firearm; is  
14 that correct?

15 A. Correct, it's -- I would say more similar  
16 to a BB pistol or something of that nature. I don't  
17 own any, I'm not extremely familiar with them.

18 Q. These particular airsoft pistols, did  
19 they resemble an actual firearm?

20 A. Yes, it was -- we had to look at it twice  
21 to determine that it wasn't an actual firearm.

22 Q. Although it's not an actual firearm, is  
23 it an item that could potentially be used to inflict  
24 injury on somebody by shooting them with pellets?

25 A. Possibly.

1           Q.     To your knowledge, would that type of  
2 device be allowed in a place like a federal facility  
3 or courthouse?

4           A.     No, it would not.

5           Q.     Mr. Waddey -- I'm not suggesting that  
6 Mr. Waddey attempted to bring it to the federal  
7 facility, but my point is, would you consider it a  
8 potentially dangerous weapon?

9           A.     Correct, it could absolutely be confused  
10 with a real firearm.

11          Q.     Could you please explain more about the  
12 tear gas canister or gas grenade that you said you  
13 located. Can you describe what it was?

14          A.     From what I -- from what I saw, it was a  
15 SABRE RED brand, and it was a tear gas canister. I  
16 believe that there's a tab on the top that you pop off  
17 and then it emits the contents into the air.

18          Q.     You also mentioned that you located a  
19 door breaching tool. Is that unusual to find?

20          A.     Yes, it is. I don't believe in 17 years  
21 I've come across one of those in a house before.

22          Q.     When you were looking for Mr. Waddey, did  
23 you seize all of these items?

24          A.     No, we didn't.

25          Q.     Why not?

1           A.     When we were done conducting the search  
2     for Mr. Waddey, we were notified that he had pulled up  
3     outside. And we left those items in place and  
4     notified my supervisor and probation that the items  
5     were observed in the home.

6           Q.     You mentioned that you received a report  
7     that Mr. Waddey had been located. Can you explain  
8     where and how Mr. Waddey was seen?

9           A.     Yes. He pulled up outside the residence,  
10    and one of the task force officers that were outside  
11    interacted with him. And it was reported to me that  
12    Mr. Waddey asked if -- if we were there because of the  
13    break-in. And before the conversation could get much  
14    farther, they placed him in handcuffs.

15          Q.     Is your understanding of what happened  
16    that when you entered the residence an alarm went off  
17    and Mr. Waddey was notified that the alarm of his  
18    residence was going off?

19          A.     That's correct.

20          Q.     To your knowledge, was Mr. Waddey taken  
21    into custody without any further incident?

22          A.     Correct. It was described to me that --  
23    that when he was placed into custody he -- he complied  
24    with the officers outside, had an attitude about it,  
25    but did comply.

1           Q.     After he was placed under arrest, were  
2 any additional items -- or in the process of arresting  
3 him, were any items recovered from Mr. Waddey's  
4 person?

5           A.     Yes. There were two knives, a multi  
6 tool, a fire starter and a blade on a lanyard around  
7 his neck, as well as a handcuff key hidden in the back  
8 of his belt with a small -- small string tied to it to  
9 access it.

10          Q.     With respect to the knives that  
11 Mr. Waddey was carrying, to your knowledge was it  
12 illegal for him to have any of those weapons or any of  
13 those knives?

14          A.     Not that I'm aware of.

15          Q.     You mentioned that a handcuff key was --  
16 was under his belt. Can you explain what -- how that  
17 came to be found?

18          A.     One of the task force officers, after  
19 placing Mr. Waddey in the car, based on statements  
20 he's made in the past and the original charges, they  
21 asked that question, if he had a handcuff key on him.  
22 And it's my understanding that he said that he did and  
23 it was on his belt, and they removed his belt and  
24 found the key.

25               MR. SUEDEKUM: Your Honor, I don't have



1 any further questions for Deputy Etheridge at this  
2 time.

3 THE COURT: All right.

4 Mr. Farmer, any questions?

5 MR. FARMER: Yes. Thank you, Your Honor.

6 **CROSS-EXAMINATION**

7 BY MR. FARMER:

8 Q. Is it Deputy Etheridge; is that correct?

9 A. That's correct.

10 Q. Okay. Deputy Etheridge, was the  
11 probation officer present at the scene when you --  
12 when you made entry? Mr. Foster?

13 A. No, he wasn't. He was not.

14 Q. Okay. So I -- so as I understand, you  
15 had -- you were there to serve an arrest warrant for a  
16 supervised release violation; is that correct?

17 A. Correct.

18 Q. Did you have knowledge of the domestic  
19 assault warrant when you came out there?

20 A. We did, yes.

21 Q. Okay. Were you attempting to serve that  
22 warrant as well?

23 A. That was served simultaneously.

24 Q. Okay. Was that served by federal  
25 officials or state officials?

1           A.     We had state officials on scene, and when  
2     he was arrested, he was taken to Metro, booked in on  
3     the domestic assault so he could --

4           Q.     Okay.

5           A.     -- take care of that charge before he was  
6     turned over to the federal system on a detainer.

7           Q.     Okay, I understand. My larger point is  
8     there were Metro or state law enforcement officials on  
9     the scene when this -- when this incident occurred?

10          A.     Yes, sir.

11          Q.     Okay, all right. Did you have a search  
12     warrant?

13          A.     No, we had an arrest warrant.

14          Q.     Okay. And do you have your report of  
15     investigation in front of you?

16          A.     Yes.

17          Q.     Okay. And do you see in there where you  
18     say that Task Force Officer Jacob Anderson knocked and  
19     announced, US Marshals with a felony warrant. Do you  
20     see that or do you have recollection of that?

21          A.     Yes.

22          Q.     What was the felony?

23          A.     The supervised release violation.

24          Q.     Okay. That's what you -- you considered  
25     that a felony warrant?

1           A.     I believe that's what we considered it  
2     that day, yes, sir. We were under the impression that  
3     the domestic assault was a misdemeanor.

4           Q.     Okay. So while you're out there knocking  
5     on the door, you don't see or hear anybody in the  
6     residence; is that correct?

7           A.     No.

8           Q.     You didn't have any reason -- you hadn't  
9     surveilled Mr. Waddey and watched him go in that  
10    morning or anything; is that correct?

11          A.     That's correct.

12          Q.     Did you have -- other than -- other than  
13    just the fact that that was his residence, did you  
14    have any reason to believe he was in there?

15          A.     Yes. Based on the information we had,  
16    the last reported work for him was August of 2019, as  
17    well as he reported that from probation that he was  
18    self-isolating at his home.

19          Q.     Okay. You say you breached the front  
20    door. What does breach mean?

21          A.     We used a heavy ramming object to open  
22    the door. You hit the door with an object and it  
23    (indiscernible).

24          Q.     It's like a battering ram?

25          A.     Say again, sir.

1 Q. It's like a battering ram?

2 A. Yes. Yes.

3 Q. How many police officers were out there  
4 that day?

5 A. If you'll give me a second.

6 Q. You can estimate, if you'd like.

7 A. Approximately ten.

8 Q. Okay. Were you aware that Mr. Waddey had  
9 been in somewhat regular contact with his probation  
10 officer?

11 A. I didn't know the regularity of it, no.

12 Q. Okay. Have you listened to this entire  
13 hearing?

14 A. Yes, I've been here.

15 Q. Okay. All right. Was there ever a  
16 thought that, you know what, why don't we just call  
17 this guy up and tell him we've got a warrant and make  
18 arrangements to come get him?

19 A. No, there was not.

20 Q. Okay. Why not?

21 A. Based on the history and the statements  
22 he made about being paranoid, not trusting the  
23 government, and the desire to kill law enforcement  
24 officers, we did not take that approach.

25 Q. But, I mean, wouldn't that have made it

1 more safe than going in there and knocking his door  
2 in?

3 A. Sometimes the element of surprise is  
4 better than walking into an ambush, in my opinion.

5 Q. All right. Let's talk about what was  
6 found. You said you saw the water bong on the coffee  
7 room table; is that right?

8 A. Yes, sir.

9 Q. Did you see any CBD oil or other CBD-type  
10 products nearby?

11 A. I did not.

12 Q. Okay. You didn't see any marijuana in  
13 the residence?

14 A. I didn't -- I didn't see any, no.

15 Q. Okay. All right. All those things that  
16 you described that you found in there, am I  
17 understanding your testimony is that you left them all  
18 in there when you left?

19 A. Yes, we left those in place.

20 Q. You didn't seize them?

21 A. No, sir.

22 Q. You didn't -- Metro -- or state  
23 officials, the Metro officials, they didn't seize  
24 them?

25 A. No, they didn't.

1           Q.     Okay. Is that because they're not  
2     illegal?

3           A.     That's because we're not familiar with  
4     probation and their -- their procedure for seizing  
5     items. We left them in place and reported them to  
6     probation.

7           Q.     Okay. I want to talk a little bit about  
8     Mr. Waddey driving up. Just to be clear, when he saw  
9     you guys, he didn't take off and run?

10          A.     No.

11          Q.     He didn't assault anybody?

12          A.     No.

13          Q.     Nothing like that?

14          A.     No. It's my understanding he was under  
15     the impression we were there because of his alarm, and  
16     he was taken by surprise when he was told he had a  
17     warrant.

18          Q.     Okay.

19                 MR. FARMER: Okay. Those are my  
20     questions.

21                 THE COURT: Any redirect, Mr. Suedekum?

22                 MR. SUEDEKUM: Just very briefly,  
23     Your Honor.

24

25

**REDIRECT EXAMINATION**

BY MR. SUEDEKUM:

Q. Deputy Etheridge, you were asked about the decision of whether to contact Mr. Waddey and try and arrange a surrender or whether to simply go and execute the warrant. When you were preparing to execute the warrant, were you aware that Judge Crenshaw had ordered the warrant sealed pending the warrant's execution?

A. Yes, I believe that was in my paperwork that it was under seal.

Q. Did that information, along with the information provided by probation, factor into your decision as to how you decided to approach trying to locate Mr. Waddey and take him into custody?

A. It does.

MR. SUEDEKUM: No further questions, Your Honor.

THE COURT: Anything else, Mr. Farmer?

MR. FARMER: No, ma'am.

THE COURT: All right. Thank you, Deputy Etheridge.

\*\*\*\*\*WITNESS EXCUSED\*\*\*\*\*

THE COURT: Is there any need for Deputy Etheridge to stay as part of the proceedings. He

1 certainly may, but if no one intends to recall him or  
2 offer his -- any additional testimony from him, then  
3 he's also free to exit if he'd like to do so.

4 MR. SUEDEKUM: Your Honor, I don't have  
5 any further questions for him. And unless Mr. Farmer  
6 would like him to stay, I would ask that he be allowed  
7 to excuse himself if he would like.

8 MR. FARMER: I'm sorry, I was muted. I  
9 don't have any reason for him to stay.

10 THE COURT: All right. Deputy Etheridge,  
11 you're welcome to stay if you'd like, but you're also  
12 free to go just like you would be if you were a  
13 witness appearing in the courtroom. So thank you,  
14 sir.

15 THE WITNESS: Thank you.

16 THE COURT: Thank you.

17 THE WITNESS: Thank you, Your Honor.

18 THE COURT: All right. Any other  
19 witnesses, Mr. Suedekum?

20 MR. SUEDEKUM: No, Your Honor.

21 THE COURT: All right. Any witnesses,  
22 Mr. Farmer? Did we lose Mr. Farmer?

23 MR. SUEDEKUM: He may be on mute.

24 THE COURT: Mr. Farmer, are you muted  
25 still?



1 MR. FARMER: I did mute, I'm sorry.

2 THE COURT: That's all right. No, I  
3 asked you to do that, so I appreciate that.

4 MR. FARMER: I would call Gary Waddey. I  
5 hope he's there.

6 THE COURT: There's been -- I'm supposing  
7 that was Mr. Waddey. Are you Gary Waddey, sir?

8 THE WITNESS: Yes.

9 THE COURT: All right. So let me go  
10 ahead and swear him in, Mr. Farmer.

11 Mr. Waddey, if you'd raise your right  
12 hand, please.

13 **GARY WADDEY**

14 called as a witness, after having been first duly  
15 sworn, testified as follows:

16 THE COURT: All right. You can go ahead  
17 and lower your hand, sir. And then if you would state  
18 your name for us and spell your first and last name,  
19 please.

20 THE WITNESS: Yes. Gary Waddey, G-a-r-y,  
21 W-a-d-d-e-y.

22 THE COURT: All right. Go ahead,  
23 Mr. Farmer.

24

25

**DIRECT EXAMINATION**

BY MR. FARMER:

Q. Mr. Waddey, you've already stated your name. What is your relationship with -- with the defendant, Robert Waddey?

A. Yeah, I'm his father.

Q. Okay. And how old is Robert?

A. He is 25.

Q. Okay. And what do you do for a living, Mr. Waddey?

A. I'm retired. I was a compliance officer, a compliance principal for Northwestern Mutual and Northwestern Mutual Investment Services. And now I am an author, I've written a Civil War book that's been published by Mercer University. And I do smaller historical writings for Williamson County and Hickman County.

Q. Okay. Do you own property in the Middle District of Tennessee?

A. I do.

Q. Okay. Does Robert own property, your son Robert, own property in the Middle District of Tennessee?

A. He does.

Q. Okay. So you've heard talk about this

1 house he had over at Crieve Hall that was -- that was  
2 raided. Have you been on the line throughout this  
3 hearing, Mr. Waddey?

4 A. Yes, I have.

5 Q. Okay. So the house that was raided over  
6 on Crieve Hall, are you familiar with that house?

7 A. I am familiar with it.

8 Q. Who owns that house?

9 A. The house is owned by Robert, as well as  
10 my wife and myself.

11 Q. Okay. So it's a family home that Robert  
12 has ownership in?

13 A. That is correct.

14 Q. And how close is that to your primary  
15 residence?

16 A. Probably about a mile to two miles. Just  
17 across I65.

18 Q. Okay. All right. Who currently lives at  
19 the residence that -- at Robert -- I'm going to call  
20 it Robert's residence, the residence over on  
21 Crieve Hall. Who currently lives there?

22 A. Right now just Robert.

23 Q. Okay. So once Andrea moved out on the  
24 night of the incident, she hasn't been back, to your  
25 knowledge; is that right?

1 A. That is correct.

2 Q. Okay. And Robert lives there alone?

3 A. That is correct.

4 Q. Okay. Is Robert employed?

5 A. Yes, he is.

6 Q. Okay. What does he do?

7 A. He is a -- he works for E3, and I think  
8 he's sort of a -- an assistant to one of the owners.  
9 He sort of visits multiple job sites, does what they  
10 need him to do. And so he's not always -- sometimes  
11 he has a crew, sometimes he does labor, but most of  
12 the time he's sort of supervising different sites.

13 Q. Okay. And is his boss's name Fred  
14 Thomas; is that right?

15 A. It is.

16 Q. Okay. Did Mr. Thomas send you an email  
17 this morning dated May 19 at 9:05 regarding your son  
18 Robert?

19 A. Yes, he did.

20 Q. Okay.

21 MR. FARMER: And, Your Honor, this email  
22 I provided to the Court prior and the US Attorney's  
23 Office. It is from Fred Thomas regarding Mr. Waddey's  
24 employment at E3 Construction Services. I'd like to  
25 make that the next exhibit, please.

1 THE COURT: Any response, Mr. Suedekum?

2 MR. SUEDEKUM: No, Your Honor.

3 THE COURT: All right. This will be  
4 Defendant's Exhibit 2, the email from Mr. Thomas.

5 (Defense Exhibit No. 2 was admitted.)

6 BY MR. FARMER:

7 Q. Okay. So let me ask you this,  
8 Mr. Waddey. Since the COVID-19 onset, has your son  
9 largely stayed at the house when he wasn't working?

10 A. Yes, he has.

11 Q. Okay. He hasn't been out wondering  
12 around. He's very concerned about this virus; is that  
13 fair to say?

14 A. Right. He's jogged some. I think he's,  
15 you know, been out with his dog some, but pretty much  
16 he's stayed at home.

17 Q. Okay. All right. Now, you are aware of  
18 the assault charge that was alleged on March 15 at  
19 your son's house; is that right?

20 A. That is correct.

21 Q. Okay. And you're aware that your son  
22 left and came to your house; is that correct?

23 A. That's correct.

24 Q. Now, I understand you weren't there that  
25 night; right?

1           A.     That's right. My wife and I were at our  
2 farm.

3           Q.     Okay. So if he was drinking that night,  
4 you couldn't say one way or the other about that?

5           A.     That's -- that's right.

6           Q.     Okay. All right. He has access to your  
7 home. He's your son; is that right?

8           A.     That's right.

9           Q.     Okay. Are you aware of a temporary  
10 restraining -- temporary order of protection issued by  
11 Ms. Stone -- Ms. Stones against your son?

12          A.     I was.

13          Q.     Okay. To your knowledge has Robert  
14 contacted Ms. Stones in any way since the evening of  
15 the alleged assault?

16          A.     Yes. Not at all.

17          Q.     Hasn't called her?

18          A.     No.

19          Q.     Hasn't e-mailed her, hasn't sent her text  
20 message, smoke signals, nothing at all?

21          A.     No. That's correct.

22          Q.     Okay. You've had contact with  
23 Ms. Stones; is that correct?

24          A.     I have.

25          Q.     Okay. And that was to exchange personal

1 items and those sorts of things?

2 A. That's right.

3 Q. Okay. So from March 15 when the police  
4 showed up that evening and investigated these  
5 allegations to, I guess, May 7 -- and that's, I guess,  
6 a seven-week period until your son was taken into  
7 custody, he's basically been out working during the  
8 day and staying home at night; is that right?

9 A. That's -- that's right.

10 Q. And then he's been in complete compliance  
11 with the order of protection, to your knowledge; is  
12 that right?

13 A. Absolutely.

14 Q. Okay. So did you -- were you able to go  
15 and look at the house after the raid occurred?

16 A. Yes. We were notified as well of the  
17 alarm.

18 Q. Okay.

19 A. And so we -- after talking to Robert and  
20 the alarm company told us there were several breaches,  
21 I guess where other doors were opened, we came back to  
22 Nashville, both my wife and I.

23 Q. Did you take any -- did you take any  
24 pictures of the inside of the house?

25 A. Yes. My wife did. And I took a few as

1 well.

2 Q. Okay. Did you notice a picture -- did  
3 you notice and take a picture of a water bong?

4 A. I did.

5 Q. Okay.

6 A. I believe my wife did. Let me correct  
7 that, my wife did.

8 Q. Okay. But you've seen that picture; is  
9 that right?

10 A. Yes, right. That's right.

11 Q. And that -- and that picture represents  
12 what you saw that -- that day when you looked at the  
13 house; is that right?

14 A. That is correct. Just shortly after.

15 Q. Okay. And does the water bong, the  
16 picture of it, does it show CBD oils and other CBD  
17 substances kind of sitting on the table next to the  
18 water bong?

19 A. It does.

20 Q. Okay.

21 MR. FARMER: And, Your Honor, I didn't  
22 provide this earlier. I had sent while we were  
23 talking, sent an email of this photo to the Court's  
24 assistant and to Mr. Suedekum. This is a picture that  
25 reflects as much that Mr. Waddey's referring to that



1 I'd like to enter as the next exhibit.

2 THE COURT: Well, I will have to take a  
3 break to look at it myself. But any response,  
4 Mr. Suedekum?

5 MR. SUEDEKUM: No, Your Honor, I don't  
6 have any objection to it.

7 THE COURT: All right. That will be  
8 Defendant's Exhibit 3.

9 (Defense Exhibit No. 3 was admitted.)

10 THE COURT: And at some point I'll take a  
11 break --

12 MR. FARMER: Are you aware that -- I'm  
13 sorry.

14 THE COURT: That's all right. Go ahead.  
15 Go ahead, Mr. Farmer.

16 BY MR. FARMER:

17 Q. Are you aware -- Mr. Waddey, are you  
18 aware that your son would use CBD oil?

19 A. I am. Or I have been, yes.

20 Q. Why would he do that?

21 A. Well, again, he felt like it was calming,  
22 and certainly I -- to him as far as anxiety. And we  
23 certainly felt that way as well.

24 Q. Okay. All right. To your knowledge, did  
25 he always purchase these substances legally?

1           A.     Yes. I mean, it's (indiscernible).

2           Q.     It's a legal product; correct?

3           A.     Yes. As far as I know it is, yes.

4           Q.     Okay. Right, me too. Okay.

5                    So let me -- you're familiar with the  
6 term third-party custodian; is that correct?

7           A.     Yes.

8           Q.     So when your son was first arrested on  
9 the underlying charges before he was -- before he pled  
10 guilty, did you serve as a custodian in some capacity  
11 for your son?

12          A.     I did. Both my wife and I did.

13          Q.     Okay. All right. And what did that  
14 entail?

15          A.     It entailed a daily supervision of  
16 Robert. In the -- we laid eyes on him each day. And  
17 sometimes that would be brief, but most of the time it  
18 would be for a visit or a 30-minute, an hour, just  
19 however long that took.

20          Q.     Okay. And that was satisfactory to the  
21 Court at that time; is that right?

22          A.     It seemed to be. We were asked to do it  
23 a second time.

24          Q.     Okay. You and I have discussed the  
25 concept of you and your wife serving as third-party

1       custodians again for this matter; is that correct?

2               A.       Yes, that's correct.

3               Q.       And to be clear, while your previous  
4       duties -- you know, as I understand, Robert stayed  
5       alone in his home and you kind of checked in on him  
6       daily. You're willing to go a step further, if  
7       necessary; is that correct?

8               A.       That is correct.

9               Q.       Okay. And you're willing to have your  
10      son kind of stay in your presence while he's not  
11      working or out doing, I guess, essential errands-type  
12      things, be it going to the store, the doctor or  
13      whatnot; is that correct?

14              A.       That's -- that's correct.

15              Q.       And you and your wife, you or your wife,  
16      I guess, are willing to spend the night at whatever  
17      residence that he -- that he resides in; is that  
18      correct?

19              A.       That's -- that's correct.

20              Q.       Okay.

21                      MR. FARMER:   Okay. Those are my  
22      questions, Your Honor.

23                      THE COURT:   Any questions, any  
24      cross-examination, Mr. Suedekum?

25                      MR. SUEDEKUM:   Yes, Your Honor, I did

1 have a few.

2 **CROSS-EXAMINATION**

3 BY MR. SUEDEKUM:

4 Q. Good afternoon, Mr. Waddey. When you  
5 previously served as a third-party custodian for your  
6 son, that was before all the incidents that have  
7 occurred in the alleged violations and petitions that  
8 have been submitted while he was on supervised  
9 release; is that right?

10 A. That -- that's correct. I believe that's  
11 correct.

12 Q. This was back during the initial criminal  
13 case and before his sentencing; is that right?

14 A. That's -- that's correct.

15 Q. And you may have heard us discuss it  
16 briefly earlier, but do you recall that at the time  
17 of -- your son, also Mr. Waddey, at the time of his  
18 initial sentencing, Mr. Waddey showed up intoxicated  
19 to court that day. Do you recall that?

20 A. I do recall that.

21 Q. And his supervised release was revoked;  
22 is that right?

23 A. That's correct.

24 Q. Okay. And he was taken into custody at  
25 that point?

1           A.     That's correct.

2           Q.     Do you have a copy of the picture from --  
3     from Mr. Waddey's residence in front of you?

4           A.     I do not.

5           Q.     Okay. Did you say that you were present  
6     when that photo was taken or that your wife went and  
7     took that photo?

8           A.     My wife was there first, so she took that  
9     photo, along with hundreds of others.

10          Q.     Okay. Did you conduct -- what was the  
11     purpose of taking the photos of the house? Were you  
12     just documenting the appearance of the residence or  
13     what was the purpose of that?

14          A.     Sure. I was -- I was documenting the  
15     enormous amount of damage that was done to the house.

16          Q.     (indiscernible)?

17          A.     I lost your voice there.

18          Q.     Sorry. The types of damage you're  
19     referring to such as the front door was breached; is  
20     that correct?

21          A.     That's correct. A door downstairs was  
22     torn off as well. The control panel to the garage  
23     door was ripped off the wall, and there were other --  
24     other -- other damaged items.

25          Q.     Okay. While your son's been on

1 supervised release, how often would you say that you  
2 interact with him?

3 A. Well, fairly often. Again, maybe not as  
4 much here during the CO-VID issue, but certainly  
5 several times a week previous to that.

6 Q. Would that include in-person and over the  
7 phone or what do you -- what type of interaction would  
8 you have?

9 A. Yes, over the phone it would be much more  
10 frequent. And during the CO-VID time period.

11 Q. I see that you've been here. Have you  
12 been able to hear the other witness testimony during  
13 the course of this hearing? I know this is an unusual  
14 way to do it.

15 A. I have, yes.

16 Q. Did you hear testimony and are you aware  
17 that there are reports that your son has continued to  
18 use alcohol while on supervised release, despite the  
19 fact that he's prohibited from doing that?

20 A. I have certainly been aware of his -- of  
21 his use of alcohol a time or two, yes.

22 Q. Apart from hearing about it today in  
23 court, were you already aware of the fact that your  
24 son had continued to use alcohol on supervised  
25 release?

1           A.     Well, again, I just said I was aware he  
2     had used. You know, I also am aware of things that  
3     he's done to try to mitigate that as well.

4           Q.     I may have not asked a very good  
5     question. I guess before today were you aware that  
6     your son had been using alcohol while he's been on  
7     supervised release?

8           A.     I -- I certainly have been aware of that,  
9     yes.

10          Q.     At any point did you talk to your son or  
11     try to get him to stop consuming alcohol since it was  
12     a condition of his supervised release that he not use  
13     it?

14          A.     Absolutely.

15          Q.     Is it fair to say you have not been  
16     completely successful in convincing him to stop?

17          A.     Well, yes and no. I think that there --  
18     I think right during this time of all times with the  
19     CO-VID, he has not used alcohol. I think the marriage  
20     situation -- or not the marriage, but certainly the  
21     living situation has brought on stress and some of the  
22     alcohol use.

23          Q.     When you searched the house and you were  
24     documenting it by taking photographs, did you find any  
25     alcohol in the home?

1           A.       We did not.

2                   MR. SUEDEKUM: Your Honor, I'm attempting  
3 to kind of look at the photograph as we proceed here  
4 with the hearing. I know that the Court also wants to  
5 have an opportunity to look at the photograph --

6                   THE COURT: Ms. Cox --

7                   MR. SUEDEKUM: I don't think I have any  
8 questions for --

9                   THE COURT: All right. Ms. Cox has  
10 brought the photograph in to me, so I do have it here.  
11 But I do have a few questions for Mr. Waddey.

12                   Mr. Waddey, if you -- if I should release  
13 your son pending his revocation hearing, I want to  
14 just be sure I understand your testimony. You're  
15 agreeable to him coming to live with you and your  
16 wife?

17                   THE WITNESS: Yes, if that's necessary.  
18 I think we would prefer to stay in his home for the  
19 reason that, well, we have two large male dogs that do  
20 not like each other. So it would be better for  
21 everyone to be separated. And plus we would be at his  
22 home, we would be in his home in the guest room.

23                   MR. FARMER: Your Honor, this is  
24 Jonathan. If I can comment. I think to clarify what  
25 he's saying is that the senior Waddeys have a dog, and



1 the younger Waddey, Robert, has a dog that don't get  
2 along. So for the younger Robert to move in full-time  
3 with the senior Waddeys would create conflict there.

4 So I think what they're proposing -- I  
5 guess, first and foremost, if that's the answer, then  
6 that's what they'll do and they'll figure it out, but  
7 what the proposal is that one or the other of the  
8 senior Waddeys will be with Mr. Waddey, with the  
9 younger Waddey at his home. Do you follow?

10 THE COURT: Yes, I do. Thank you.

11 MR. FARMER: Okay.

12 THE COURT: All right. And you  
13 understand, Mr. Waddey, that if I put -- place your  
14 son in your third-party custody, that if you become  
15 aware that he's violating any conditions of release,  
16 either his supervised release or any conditions I  
17 impose, that you're required to report that to the  
18 Court, to the probation officer?

19 THE WITNESS: Yes, Your Honor. In fact,  
20 as an old compliance officer, I would like sort of a  
21 listing, if you have it, of what the requirements or  
22 rules are so that we could refer to that in any  
23 instance.

24 THE COURT: And you understand if you do  
25 report your son, that there's a possibility, then,

1 that he could be remitted back to custody until his  
2 revocation hearing if he doesn't follow the conditions  
3 of release pending his revocation hearing. Do you  
4 understand that?

5 THE WITNESS: I certainly do.

6 THE COURT: And you're still willing to  
7 report him if he fails to comply?

8 THE WITNESS: Yes, Your Honor. Remember,  
9 I was a compliance officer.

10 THE COURT: And you understand if you  
11 don't report him, that then you could potentially, or  
12 your wife, if I should decide to name her a  
13 third-party custodian, that the two of you could be  
14 subject to contempt of court proceedings. Do you  
15 understand that?

16 THE WITNESS: I do, Your Honor.

17 THE COURT: All right.

18 Any other questions for Mr. Waddey,  
19 Mr. Farmer?

20 MR. FARMER: No, Your Honor.

21 THE COURT: Any other questions,  
22 Mr. Suedekum?

23 MR. SUEDEKUM: No, Your Honor.

24 THE COURT: All right.

25 \*\*\*\*\*WITNESS EXCUSED\*\*\*\*\*

1 THE COURT: Any other witnesses,  
2 Mr. Farmer, or proof?

3 MR. FARMER: No, Your Honor.

4 THE COURT: All right. Counsel --

5 MR. FARMER: If I didn't make the email  
6 an exhibit -- I think I did, but if I didn't, I need  
7 to do that.

8 THE COURT: You did. That was  
9 Defendant's Exhibit 2.

10 MR. FARMER: Okay.

11 THE COURT: So Counsel wish to be heard,  
12 then? Go ahead, Mr. Suedekum. I'll hear from you  
13 first.

14 MR. SUEDEKUM: Yes, Your Honor. Well,  
15 with respect to the preliminary hearing, the evidence  
16 has established probable cause to believe that  
17 Mr. Waddey has violated each of the three alleged  
18 petitions -- or conditions set forth in the petition,  
19 the first being (indiscernible) in violation of  
20 Tennessee law.

21 The evidence that we have in the record  
22 includes not only the statements that the victim,  
23 Mr. Waddey's girlfriend or ex-girlfriend, Ms. Stones,  
24 she made the night of the incident, that at some point  
25 they appeared to have just been wrestling, the

1 defendant had been drinking and that they were  
2 practicing MMA moves on each other.

3 But at some point later on Mr. Waddey  
4 continued to pursue her and come after her, even after  
5 she told him stop and that she didn't want to do it  
6 anymore.

7 In doing so, Mr. Waddey, according to the  
8 report, not only pinned her down and put his knees on  
9 top of her, but at some point when she tried to  
10 protect herself and pull away, got kicked in the chin.  
11 And I will concede the report is ambiguous as to  
12 whether she was kicked intentionally or whether it was  
13 just an accident as a result of the conduct he was  
14 engaging in.

15 But even if it was not an intentional  
16 kick, Your Honor, it was certainly reckless. And  
17 under Tennessee law, an assault is defined in  
18 Tennessee Code 39-13-101(a)(1) as a person commits  
19 assault who intentionally, knowingly or recklessly  
20 causes bodily injury to another.

21 I would submit that the facts as they  
22 occurred that the (indiscernible) someone is asking  
23 you and telling you to stop and then being kicked in  
24 the face and having an injured and sore jaw for two  
25 days later is sufficient to satisfy the first prong.

1           I would also further submit, Your Honor,  
2   that both of the other two prongs of how assault can  
3   be committed are also satisfied by the defendant's  
4   behavior here. And I will note that two days later,  
5   when Ms. Stones took out the assault affidavit, she  
6   swore under oath, recounts the same facts that she had  
7   asked Mr. Waddey to stop and that he continued after  
8   her. And that his conduct constituted an assault;  
9   certainly, at a minimum, probable cause to believe  
10   that an assault occurred, both as was found by the  
11   magistrate judge, as it was found by Judge Crenshaw  
12   when he approved of the revocation.

13           With respect to the second and third  
14   alleged violations, I think the record is sort of  
15   unrefuted that Mr. Waddey had THC in his system. And  
16   I understand Mr. Waddey to have told probation that he  
17   did this by taking legally purchased and  
18   over-the-counter-type substances. But as the  
19   probation officer explained, based on his  
20   investigation, using hemp or CBD oil would not have  
21   caused him to test positive for THC.

22           In any event, Mr. Waddey was warned that  
23   whatever the substance was that he was using, whether  
24   it was legally bought, whether it was CBD oil or  
25   something else, that it was causing him to test

1 positive for THC. He continued to use the substance,  
2 at least for a time, as he continued to have positive  
3 tests for over a span of several months.

4 And third, with respect to consuming  
5 alcohol, Your Honor, that was not always a standard  
6 condition. The typical standard condition is not to  
7 consume alcohol to excess. In this particular case,  
8 Mr. Waddey's conditions of supervised release are not  
9 to consume alcohol at all.

10 THE COURT: Mr. Suedekum, do you know,  
11 were the -- and because I'm not able to access my  
12 computer in my courtroom for some reason, but -- and I  
13 didn't realize this issue of alcohol use -- I didn't  
14 make the connection between the pretrial release  
15 conditions -- actually, I didn't know anything about  
16 Mr. Waddey's condition when he first appeared for his  
17 sentencing hearing. Was there any condition of his  
18 pretrial release with respect to the use of alcohol?

19 MR. SUEDEKUM: Your Honor, Mr. Foster can  
20 correct me if I'm wrong, but I believe the pretrial  
21 conditions require persons on release not to engage in  
22 the excessive use of alcohol.

23 THE COURT: Well, that's not -- that's  
24 not always a condition of pretrial release. I'll take  
25 a break and I'll look at the conditions of pretrial

1 release. Go ahead, Mr. Suedekum.

2 MR. SUEDEKUM: Your Honor, I do have the  
3 docket open on my computer, so I'm happy to look at  
4 that perhaps while Mr. Farmer is talking and see if I  
5 can provide the Court an answer. But from looking at  
6 the docket, I do know that Judge Crenshaw did revoke  
7 Mr. Waddey's pretrial supervision as a result of him  
8 being intoxicated at the initial sentencing hearing.  
9 I'll have to pull up the docket to see whether  
10 Judge Crenshaw explained in that order the full basis  
11 of it, but I do believe that it did constitute a  
12 violation of his pretrial supervised release.

13 THE COURT: All right. I'll take a look  
14 at that. Go ahead, Mr. Suedekum.

15 MR. SUEDEKUM: Your Honor, and then  
16 finally with respect to the third condition, consuming  
17 alcohol, it may be up for dispute as to how many times  
18 and how frequently Mr. Waddey consumed alcohol, but I  
19 think the record is clear and everyone is -- all  
20 witnesses have told the same story that at least at  
21 some point on the evening of March 15 he consumed  
22 alcohol, in addition to having previous other positive  
23 tests for consuming alcohol. And so I would submit,  
24 Your Honor, that's sufficient to establish probable  
25 cause for that violation.

1 THE COURT: All right. And as to  
2 detention?

3 MR. SUEDEKUM: Your Honor, so that I  
4 don't repeat my argument, I'll reserve responding to  
5 Mr. Farmer's argument about the detention factors if  
6 the Court would permit me to do that.

7 THE COURT: All right.  
8 Go ahead, Mr. Farmer.

9 MR. FARMER: Okay. Thank you,  
10 Your Honor. First, as to the probable cause piece of  
11 it, starting with just the violations in order, the  
12 first violation is says do not violate any law. And  
13 the allegation is is that Mr. Waddey has violated  
14 state law by committing an assault.

15 It's just a very weak, weak presentation  
16 for an assault claim, Your Honor. What we have,  
17 what's undisputed before us is that on March 15,  
18 Ms. Stones told the police that they were doing some  
19 sort of Brazilian jujitsu and she felt like she wanted  
20 to stop, so Mr. Waddey got rough with her.

21 The police went out there, they  
22 investigated that situation, and -- and they didn't  
23 find enough to arrest Mr. Waddey. And that's very  
24 significant in Tennessee domestic violence cases,  
25 Your Honor. And I asked the probation officer about



1 that. That's a Tennessee Code Section 36-3-619. It  
2 requires police officers -- and require is strong.  
3 It's kind of phrased mandatory arrest provision.

4 But what the text says is that if a  
5 police officer finds probable cause that a domestic  
6 injury has -- has occurred, the preferred response is  
7 arrest. I can tell Your Honor that that's interpreted  
8 by Metro police officers is that if they find a  
9 scratch, a bruise, a cut or credible evidence of an  
10 assault, then they're arresting somebody and they'll  
11 let the courts sort it out. So the fact that no  
12 arrest was made that night is -- is very, very  
13 probative.

14 Additionally, Ms. Stones indicated  
15 that -- that Mr. Wadley was intoxicated that evening  
16 when the fight occurred. She says that in the  
17 incident report for the police officers. I think we  
18 know that's clearly not true because the police  
19 officers let Mr. Wadley drive away. And I don't think  
20 it requires great powers of deduction to conclude if,  
21 one, Mr. Wadley was drunk that, A, they would have  
22 been more likely to arrest him; and, B, they certainly  
23 wouldn't have let him drive away.

24 So, you know, you've got police officers,  
25 the first people on the scene whose job and training

1 is to evaluate probable cause. And they said, you  
2 know what, we don't think there is probable cause. So  
3 nothing happened vis-à-vis the arrest warrant until  
4 two days later when Ms. Stones goes down on her own  
5 and gets a night court magistrate to agree to give her  
6 a warrant. Short of that, there's been no finding of  
7 probable cause from anyone, and I think this Court  
8 should refrain from finding probable cause as to the  
9 assault.

10 Moving on to the second violation, the  
11 THC, the testimony I heard was that he has always and  
12 repeatedly and constantly tested, and he's got six  
13 positive tests that he regularly insists are not  
14 related to marijuana abuse, but rather from CBD oil.  
15 We don't have any marijuana. Mr. Waddey, the father,  
16 testified that the son uses CBD. We've got pictures  
17 showing CBD oil at the house.

18 So I just don't think he's used  
19 marijuana. I don't think he's used controlled  
20 substances. And this has been reviewed by  
21 Judge Crenshaw anyway.

22 The alcohol, you know, I'll stipulate  
23 that he's had positive alcohol tests per the petition,  
24 at least that's what the record shows. I will say  
25 that -- that Judge Crenshaw has already analyzed this,

1 at least as to the first ones. I don't really have  
2 any further argument as to his admission of drinking  
3 alcohol. You know, other than to say that no alcohol  
4 has or ever has been found been on Mr. Waddey.

5 Would you like me to go ahead and  
6 transition into detention?

7 THE COURT: Yes, please.

8 MR. FARMER: Okay. All right. So,  
9 Your Honor -- as Your Honor knows for detention, I've  
10 got to show by clear and convincing evidence two  
11 things, based on the record, first that he's not a  
12 flight; and second, that he's not a danger.

13 So starting with flight -- let me find my  
14 notes. What we know about from the record about  
15 flight is that Mr. Waddey is certainly not a flight  
16 risk. He's got Class B violations. He's satisfied  
17 one year, 11 months and two weeks of his supervised  
18 release. He reported -- it sounded to me like more  
19 than the probation officer wanted him to. I almost  
20 got the feeling the probation officer felt like he was  
21 reporting too much, calling too much.

22 He owns property here. He has a job  
23 here. He has no record of flight. When the police  
24 showed up at his house and broke his door in, he  
25 willingly and voluntarily went along with them.

1           Today, and he also has a third-party  
2     custodian who's said he's willing to be sure he  
3     complies with -- whatever orders the Court lays down  
4     and certainly those will include that he shows up  
5     whenever he's supposed to. I don't think there's any  
6     valid basis in the record for flight.

7           As for danger, I think danger to  
8     Ms. Stones would certainly be an issue based on the  
9     allegations. The record undisputed before us is that  
10    he's been told by both the Metro Davidson County court  
11    system and by his probation officer to have absolutely  
12    no contact with Ms. Stones, and he's done that. He  
13    has had no contact with her whatsoever.

14           His father has participated --  
15    participated in a peaceful exchange of her belongings  
16    and it appears to me, Your Honor, and appears from the  
17    record that they have extricated each other from one  
18    another's lives, so I don't think he's a danger to  
19    Ms. Stones at all.

20           Certainly, the third-party custodian  
21    would be relevant in reporting any contact he would  
22    have with her as well. And I guess also this  
23    undercurrent that -- you know, and it's not even  
24    undercurrent. It's out there that this idea that  
25    Robert Waddey is a conspiracy-minded guy and, you

1 know, he's -- he's going to do bad stuff and the  
2 CO-VID thing has stressed him out and he's just kind  
3 of some crazy person that we've kind of got to get our  
4 arms around.

5 But the record is also clear that none of  
6 the things that he has that the probation officer is  
7 so concerned about, none of that stuff is illegal.  
8 He's very mindful about his firearm restriction. Not  
9 only is it a violation of supervised release, it's a  
10 violation of federal law at this point for Mr. Waddey  
11 to have a firearm. So he doesn't. He knows that.

12 He wants to go live remotely. I think,  
13 frankly, that's not an uncommon position at this time.  
14 His probation officer says he can't, so he didn't. He  
15 is concerned about his ability to defend his home.  
16 And I will note that every one of these items were  
17 found on his person or in his home.

18 And, frankly, the items that might cause  
19 the Court the most concern were found in his home and  
20 he's concerned about his ability to defend his home.  
21 But he's not committing crimes and he's not -- he's  
22 not violating any laws in this process. The fact is,  
23 Your Honor, it's legal and it's acceptable -- and  
24 maybe some people, you know, have a different  
25 preference. It's legal and acceptable to be

1 conspiracy-minded and to have fears and concerns about  
2 the government and to take precautions for some sort  
3 of societal disruption. There is no law or rule that  
4 says he can't do that. And I will submit that several  
5 people in our country are doing just that right now.

6 But in any event, regardless of how one  
7 may personally feel about that mindset, certainly it's  
8 not a basis to keep someone in jail. To the extent  
9 it's relevant to some sort of mental health concerns,  
10 I think the proof is that Robert Waddey has a current  
11 and ongoing relationship with Dr. Kyger. His  
12 probation officer testified to that. And that he is  
13 and has been in outpatient treatment pretty much all  
14 throughout his supervised release.

15 So is it working as well as they want it  
16 to? I think that depends on how you look at it. Has  
17 he completely 100 percent never touched alcohol again?  
18 No, but that's not the nature of recovery, that's not  
19 the nature of addiction. I do think he's got a job,  
20 he's holding down a steady job, and he's living  
21 responsibly.

22 I certainly think there is a plan in  
23 place for Your Honor to release Mr. Waddey and to  
24 allow him to fight this petition from a -- from  
25 outside the jail.

1           THE COURT: Mr. Farmer, tell me what I  
2       should do about the fact that Mr. Waddey was  
3       previously in the custody -- pretrial release custody  
4       of his parents, his third-party custodians, there was  
5       a condition that he not use alcohol excessively and  
6       then he appeared at the sentencing hearing with a  
7       blood alcohol content level of .173. Why should I  
8       have confidence at this point that Mr. Waddey, Gary  
9       Waddey, despite his best intentions, would be able to  
10      make sure that Robert Waddey complies with the  
11      conditions of release given that that was an  
12      unsuccessful venture before?

13           MR. FARMER: Well, because I think --  
14      well, a couple reasons. One, Mr. Waddey has gone  
15      through much more treatment and therapy than he had at  
16      that time. Secondly, you know, regardless of how this  
17      supervised release petition pans out, there will never  
18      be anything in Mr. Waddey's life that is as stressful  
19      and emotional as a federal sentencing hearing. It was  
20      his first experience with that. He had no idea how or  
21      what was going to happen.

22           Federal sentence is a scary proposition  
23      for anybody. It's a scary proposition for me as a  
24      lawyer. So for a 22-year-old kid who -- or 22 or 23,  
25      however old he was at the time, 22 or 23-year-old kid,

1 he hadn't really been in trouble before, so standing  
2 before a judge on a plea hearing not knowing what was  
3 going to happen, I can imagine how he'd be freaked  
4 out.

5 But Mr. Waddey has grown, he's evolved.  
6 He's had the benefit of treatment. He's not perfect,  
7 but he's trying. And I think the fact that he's  
8 repeatedly and regularly in contact with his probation  
9 officer, I think he does try. He wants to do right.  
10 I think Gary Waddey understands the -- both the  
11 seriousness that his son faces now and the seriousness  
12 that will be in his future if -- if Robert drinks.

13 And -- and I guess lastly, I think the  
14 nature of the supervision prior was kind of a daily  
15 check-in. As I understood from Your Honor's  
16 questioning, you're more inclined, if you are to  
17 release him, to have him kind of residing with his  
18 parents. So there would be a greater level of  
19 supervision there as well.

20 THE COURT: All right. Anything else,  
21 Mr. Suedekum? Do you want to address the detention  
22 factors?

23 MR. SUEDEKUM: Yes, Your Honor. Just  
24 quickly. First, to quickly circle back on the  
25 preliminary hearing issue, the -- I would submit the



1 difference between what happened on March 15 and why  
2 an arrest warrant was issued two days later was that  
3 the victim came back, expressed an interest and  
4 willingness to want to go forward with pressing  
5 charges and submitted a sworn affidavit in order to  
6 have the warrant issued.

7 In contrast to what Ms. Stones reported  
8 both to police and under oath in the affidavit,  
9 Mr. Waddey has offered two different stories, first  
10 the story to the police that they were wrestling, and  
11 then second later telling the probation officer that  
12 it wasn't an assault at all, that it was an entirely  
13 different situation that led to, you know, her being  
14 upset and contacting the police.

15 And so I would submit that a sworn  
16 statement from the victim, especially when Mr. Waddey  
17 has given inconsistent explanations for what happened  
18 is enough to show probable cause that he had committed  
19 an offense. I certainly recognize that whether or not  
20 the State can ultimately prove that beyond a  
21 reasonable doubt is yet to be determined.

22 That's not the standard here. The  
23 standard is simply whether there's probable cause to  
24 believe it. The fact that Mr. Waddey was arrested on  
25 a warrant finding probable cause to believe that, I

1 believe is strong evidence that that violation has  
2 been established here.

3 The other two, Your Honor, I won't  
4 belabor those points.

5 As for the detention issue, Your Honor,  
6 I've spoken with probation at great length about  
7 Mr. Waddey's case, and we have spent a decent amount  
8 of time talking about Mr. Waddey's beliefs and his  
9 fears and, in some cases, his paranoia about events.  
10 And as Mr. Farmer pointed out, this is not an attempt  
11 to punish or say anything about Mr. Waddey's views or  
12 what he believes, other than the risk that it poses  
13 potentially to others, as well as himself, Your Honor.

14 That's one of the factors that needs to  
15 be taken into consideration. When you look at the  
16 items that were located in his home, the fact that he  
17 had a door-breaching tool, that there is a tear gas  
18 canister, the fact that he had airsoft pistols,  
19 certainly in -- and Mr. Waddey elected not to testify,  
20 he didn't have to. I expect Mr. Waddey's explanation  
21 would be I can't own a firearm, but I need some way to  
22 protect myself. So these are items that I can have.  
23 Maybe that would be the story, maybe he has a  
24 different explanation.

25 From the government's standpoint, looking

1 at the detention question, these are potential  
2 weapons. These are things that can be potentially  
3 used to harm himself. And the presence of those items  
4 in the home, along with his struggles and his use and  
5 consumption of alcohol creates a potentially dangerous  
6 situation for him and for other people.

7 And the Court, I think, hit the nail on  
8 the head that previously Mr. Waddey was on pretrial  
9 release prior to pleading guilty, being sentenced.  
10 And that ultimately his supervision was revoked as a  
11 result of -- I think, Judge Crenshaw's order indicated  
12 consuming three pints of alcohol, of vodka I think is  
13 what the order said.

14 And so the government submits that given  
15 the defendant's conduct while on supervised release  
16 that there has been a pattern of violations. And I  
17 would submit that the domestic violence arrest, that  
18 warrant is probably the most serious of them.

19 The totality of the circumstances,  
20 Your Honor, is that on sort of a fairly consistent  
21 basis Mr. Waddey has had trouble complying with the  
22 conditions of his supervised release, resulting in  
23 several petitions submitted to the Court. This is, I  
24 think, the first one that has -- the Court has elected  
25 to take action on since November 2018, which was

1 reflective of attempting to give Mr. Waddey time to  
2 sort things out on his own and follow the conditions  
3 and get with the program. But he's continued to have  
4 issues, he's continued to have violations and for that  
5 reason, Your Honor, we do believe detention is  
6 appropriate here.

7 To the extent the Court is entertaining  
8 allowing Mr. Waddey to be released, we do believe that  
9 (indiscernible) third-party custodian so that he has  
10 fairly constant supervision is appropriate here. We  
11 would also ask that Mr. Waddey, if he continues to  
12 work, that he be allowed to leave to go to work, but  
13 that otherwise that he would effectively be on home  
14 confinement so that he would be at home to help  
15 minimize the risk of any other further issues to the  
16 extent the Court is considering that route.

17 THE COURT: All right. Anything else,  
18 then, Mr. Farmer?

19 MR. FARMER: No, Your Honor.

20 THE COURT: Anything that you'd like to  
21 add, Mr. Foster?

22 MR. FOSTER: Your Honor, I would like to  
23 add some information on the last point.

24 THE COURT: Sure.

25 MR. FOSTER: If the Court is inclined to

1 request any type of home confinement, again, as I  
2 mentioned before, the COVID-19 pandemic has affected  
3 some of the ways that the probation office is able to  
4 (indiscernible) activities including various means of  
5 home confinement.

6 As I mentioned right now, probation  
7 officers aren't going into individuals' homes. So we  
8 would have difficulty installing or maintaining any  
9 home confinement equipment. If the Court were  
10 inclined to try to utilize any other form of home  
11 confinement, we would have to be sure that the  
12 residence could technically accommodate some of those  
13 forms, such as having a landline, if he would be on  
14 voice ID. But, again, I would answer any questions  
15 the Court had if the Court was inclined to order any  
16 (indiscernible).

17 THE COURT: Mr. Foster, what is the  
18 recommendation of the probation office with respect to  
19 detention pending revocation? Anything that you want  
20 to add to what Mr. Suedekum has already stated as the  
21 position of the government?

22 MR. FOSTER: I concur with the points  
23 raised by Mr. Suedekum. With regard to the ongoing  
24 nature, elements of noncompliance on Mr. Waddey's  
25 part, I'm particularly concerned by the presence of

1 the items found in his home. I'm concerned with what  
2 has become of those items.

3 I'm concerned with not only that  
4 (indiscernible) Mr. Waddey was so close to, as far as  
5 he knew, pushing (indiscernible), he openly possessed  
6 items which he well knows have been major issues on  
7 supervised release. His probation officer  
8 (indiscernible) had any of those items been  
9 encountered in the home, recommendation for action  
10 would have been requested on that basis. I think  
11 that -- you know, I concur with the government's  
12 recommendation for detention, and it would be my hope  
13 that the matter would be resolved before  
14 Judge Crenshaw to his satisfaction as soon as  
15 possible.

16 THE COURT: Mr. Suedekum or Mr. Farmer,  
17 do you know, is Judge Crenshaw setting revocation  
18 hearings and conducting those remotely at this time?

19 MR. SUEDEKUM: I'm not sure, Your Honor.  
20 I know that he's conducting some hearings by video  
21 conference, and so this might be -- that might be the  
22 type of hearing that he would schedule by video  
23 conference. I do know, it was in a different case,  
24 but about two weeks ago we did -- there was an  
25 in-person hearing where several defense attorneys and

1 one attorney for the government appeared to discuss  
2 resetting a trial that was being moved.

3 So I don't know whether he is attempting  
4 to still hold some hearings in person or whether he's  
5 doing them by video conference right now.

6 THE COURT: All right.

7 MR. SUEDEKUM: As far as I know, he has  
8 not set a hearing yet.

9 MR. FOSTER: Your Honor, if I could  
10 interject, I have participated in a hearing involving  
11 revocation that was conducted by Judge Crenshaw as  
12 recently as not last week, but late the week before.  
13 And it is my understanding that he's using available  
14 options to go ahead and hold hearings, particularly  
15 for individuals who are in custody. I believe those  
16 would be conducted either telephonically or video  
17 conference. Ultimately I would not want to speak for  
18 him. I'm just letting you know what I've become aware  
19 of.

20 THE COURT: I appreciate it. I didn't  
21 take it as you speaking for him, Mr. Foster. I  
22 appreciate that you updated me. I know that there are  
23 some matters that are being conducted telephonically  
24 or by video, but I also know there's some matters that  
25 are being postponed, so.

1 I'm going to take a brief recess and come  
2 back and give you my decision this afternoon. Give me  
3 about five or ten minutes and everyone just hold on.  
4 If you want to, you can disconnect your video so that  
5 you're not seeing each other and audio, but -- and  
6 that's what I'm going to do, but I will come back and  
7 resume in about five or ten minutes.

8 (Whereupon, a break was taken.)

9 THE COURT: All right. This is Judge  
10 Holmes, I'm ready to reconvene.

11 All right. I have looked at all of the  
12 documents and gone back and looked at the record in  
13 this case and I'm prepared to make my findings and  
14 conclusions which are guided by Rule of Criminal  
15 Procedure 32.1(a)(6), which requires that I consider  
16 whether Mr. Wadley can be released without posing a  
17 danger to any other person or the community or without  
18 likelihood of flight by a clear and convincing  
19 standard, which is his burden to -- which is his  
20 burden to satisfy.

21 And for the reasons I'm about to state,  
22 I do find that Mr. Wadley has carried his burden. But  
23 let me say this -- start out by saying, I do find that  
24 there's probable cause to believe that Mr. Wadley  
25 violated the conditions of release as alleged in the



1 petition.

2           The arguments that Mr. Farmer makes about  
3 the sufficiency of the arrest warrant and the  
4 circumstances upon which it rests are all arguments  
5 that are more appropriately suited to defense in that  
6 matter or to a determination by Judge Crenshaw of  
7 whether the -- whether there has been a violation, an  
8 adjudication of a violation.

9           For purposes of probable cause, which the  
10 standard is very low, I find that there is probable  
11 cause to find that Mr. Waddey violated the conditions  
12 of release as alleged in the complaint.

13           All right. With respect to -- so then  
14 the question is whether Mr. Waddey ought to be  
15 released or detained. And I do find that Mr. Waddey  
16 has carried his burden of showing by clear and  
17 convincing evidence that there are conditions of  
18 release that I can impose that would reasonably assure  
19 the safety of the community and his appearance in  
20 court.

21           I am going to tell you, it is a high  
22 standard, and Mr. Waddey has satisfied that standard  
23 by the barest minimum possible of clear and  
24 convincing. And frankly, the reason why the Court  
25 makes that finding is the willingness of Gary Waddey

1 to be a more intensive third-party custodian, because  
2 I am convinced after the testimony today and viewing  
3 the entire record in this matter that it is only with  
4 the support of Gary Waddey and -- I'm sorry,  
5 Mr. Waddey, your wife's name has escaped my fingertips  
6 here.

7 But it is only with the support of his  
8 parents that Robert Waddey is going to finish up his  
9 supervised release successfully and turn a corner and  
10 put this whole matter behind him. And -- Paula  
11 Waddey. And because Gary Waddey is willing to be a  
12 third-party custodian, including willing to go stay at  
13 Robert Waddey's house to provide a more intensive  
14 level of custodianship, that the Court finds that  
15 there has been a clear and convincing showing of a  
16 basis to release Robert Waddey pending the revocation  
17 hearing.

18 Let me just go through some of the  
19 Court's considerations. For the last several months  
20 it appears -- at least up until the COVID-19  
21 situation, it appears that Mr. Waddey had been  
22 reasonably compliant; although, certainly the new  
23 alleged violation is very serious.

24 I do want to say with respect to  
25 Mr. Farmer's comments about Judge Crenshaw having

1 found that the previous drug screens and the previous  
2 use of alcohol was not serious enough to do any more  
3 than just take no action, while the Court can  
4 certainly take any action on any petition brought by  
5 the probation officer, generally the Court accepts the  
6 recommendations of the probation office.

7 And I'm quite certain that the defense  
8 bar has no desire for either the probation office or  
9 the Court to start revoking supervised release or  
10 revoking pretrial release based on marijuana positive  
11 drug screens or use of alcohol screens. So I don't  
12 place any weight whatsoever on Judge Crenshaw having  
13 taken no prior action with respect to those alleged  
14 violations in this case.

15 It is always the situation that if there  
16 are later more serious alleged violations, that those  
17 previous violations are taken into the Court -- taken  
18 into consideration by the Court at that time in  
19 considering the totality of a defendant's likely  
20 compliance with conditions of release.

21 Again, I do find that because of the  
22 willingness of Gary Waddey to be a third-party  
23 custodian, that is the tipping point for the Court.  
24 But for Gary Waddey's willingness to do that -- I want  
25 to tell you, Robert Waddey, that but for the

1 willingness of your father to be a third-party  
2 custodian, I would be detaining you at this point.

3 I do find that that's a very significant  
4 factor that pushes this case into the clear and  
5 convincing realm and satisfies that burden because I  
6 do believe that it is your father's support and  
7 willingness to be a third-party custodian and to hold  
8 you to the conditions of your supervised release that  
9 clearly and convincingly establishes that you -- that  
10 I can impose -- that and other conditions of release  
11 that will reasonably mitigate against any danger to  
12 the community and ensure your appearance in court.

13 I'm also taking into consideration the  
14 fact that Mr. Waddey's supervised release would  
15 otherwise have expired on May 31 of 2020. I do find  
16 merit in Mr. Foster's statements that it is concerning  
17 that with two months left to go on his supervised  
18 release that Robert Waddey appears to be in possession  
19 of items that might be considered to be contraband.

20 And I'm not taking that lightly or  
21 minimizing that, but at this point the remaining  
22 period of Mr. Waddey's supervised release is very  
23 short, at least up to this point. And so the Court  
24 finds that that's an additional basis that supports  
25 that he be released at this time.

1           Also, the fact that there is an order of  
2 protection in place, but I'm also going to restrict  
3 Mr. Waddey's contact with Ms. Stones and his small  
4 children, whether or not the order of protection  
5 remains in place by the state court.

6           I'm also going to require that he receive  
7 some mental health treatment between now and the  
8 revocation hearing and that he comply and consistently  
9 participate in and follow the recommendations of the  
10 mental health providers. So these are going to be the  
11 conditions upon which Mr. Waddey's going to be  
12 released. And Gary Waddey, are you still there?  
13 Because I want you to listen to these conditions.

14           MR. GARY WADDEY: I am.

15           THE COURT: All right. I'm going to have  
16 Mr. Foster send to you a copy of the supervised  
17 release conditions so that you have all of those,  
18 because they're going to be incorporated in this  
19 order. And they will be additional conditions, even  
20 though they won't be separately recited in this order,  
21 but Mr. Foster can send those to you so that you'll  
22 have those. You are going to get a copy of this  
23 order.

24           And, Mr. Farmer, the way this is working  
25 is I will need you to make sure that you provide to

1 Mr. Waddey a third-party custodian affirmation, and  
2 I'll fill it out and then Mr. Waddey will need to sign  
3 it and return it to you, Mr. Farmer, and then you will  
4 need to provide that to Ms. Cox so that she can file  
5 it at that point.

6 Mr. Waddey, if you would give me -- well,  
7 let me go through the conditions of release because I  
8 want to have you confirm one more time, Gary Waddey,  
9 that you are still willing to be your son's  
10 third-party custodian. And just for ease of  
11 reference, Robert, let me just say to you that I'm --  
12 this probably echos what you heard from Judge Newbern  
13 when she released you on pretrial release into your  
14 parents' custody that you now have involved your  
15 parents in your legal situation and potentially put  
16 their own legal stability in jeopardy some. That's  
17 very serious.

18 And it is not the ordinary course of  
19 things that parents have to step back into a role of  
20 being an everyday parent for their adult children.  
21 That's not the way it's supposed to work. When our  
22 children get to be adults, we should have some level  
23 of confidence that we can -- they can go out into the  
24 world and take care of themselves and remain  
25 law-abiding, productive citizens without needing our

1 oversight and parenting --

2 UNIDENTIFIED SPEAKER: Your Honor.

3 THE COURT: Yes. Who said Your Honor?

4 I'm sorry, I thought I heard someone say Your Honor.

5 All right.

6 So I just want to be sure, Robert Waddey,  
7 that you appreciate how serious this is for your  
8 father to be willing to step back into this role and  
9 assume the role of a parent again as if you hadn't yet  
10 reached the age of 18. It's going to be a very  
11 intensive parental role. I'm going to require that he  
12 spend the nights at your house and that he very  
13 actively provide supervision of your compliance with  
14 the conditions of release between now and the time of  
15 the revocation hearing.

16 So I'm going to release you on your own  
17 recognizance, Mr. Waddey, Robert Waddey. You're going  
18 to remain on the conditions of supervised release that  
19 have previously been imposed by the district judge.  
20 Mr. Foster will provide a copy of those to Gary Waddey  
21 so that you have those.

22 And then in addition, Robert Waddey,  
23 you're going to abide by the following conditions  
24 pending a revocation hearing: You may not change your  
25 address or move without permission of probation office

1 or the Court. And that means you're going to reside  
2 at the 602 Dunston -- is it Dunston Drive, Dunston  
3 Court, at that address, and may not move or change  
4 that address without permission of the probation  
5 office or the Court.

6 You must be in court each and every time  
7 you're instructed to be here and surrender to serve  
8 any additional sentence imposed. You cannot  
9 intimidate or harass any witness, victim, informant,  
10 juror or officer of the Court and cannot obstruct any  
11 criminal investigation. And there are very serious  
12 penalties if you should violate any of those  
13 conditions.

14 It is punishable by up to ten years in  
15 prison and a \$250,000 fine or both if you should  
16 obstruct a criminal investigation, tamper with a  
17 witness, victim, informant, retaliate or attempt to  
18 retaliate against a witness, victim, informant or  
19 attempt to intimidate a witness, victim, juror,  
20 informant or officer of the court. And the penalties  
21 for tampering, retaliation or intimidation are  
22 significantly more serious if they involve a killing  
23 or attempted killing.

24 You must not violate any local, state or  
25 federal law, and if you do, you could be punished by



1 as much as from 90 days to ten years in prison, in  
2 addition to a \$250,000 fine, and any penalty provided  
3 for the offense committed.

4 And that means everything from the most  
5 minor traffic offenses all the way up to new  
6 misdemeanor or felony charges of any kind. It's not  
7 to say that you would necessarily be returned to  
8 custody pending the revocation hearing if you get a  
9 traffic ticket, but it could be a violation. So you  
10 need to be sure that you're not violating any local,  
11 state or federal law.

12 And if you violate any condition of  
13 release, a warrant for your arrest could be issued,  
14 your own recognizance bond forfeited and new bonds  
15 with additional conditions or your detention until  
16 trial, which is the revocation hearing, could be  
17 ordered by the Court and you could be held in  
18 contempt.

19 And if you fail to appear at any  
20 proceeding in this case or fail to surrender to serve  
21 any sentence imposed, you could be charged and  
22 convicted of bail jumping, which applies equally to  
23 your own recognizance, and is punishable by in some  
24 cases by as much as ten years in prison and/or a fine  
25 in addition to any other punishments imposed in your

1 original case.

2 And then these are the additional  
3 conditions with which you're going to comply: You  
4 shall maintain or actively seek employment. You shall  
5 have no contact with Andrea Stokes (sic), either  
6 directly or indirectly outside the presence of your  
7 attorney, nor shall you have any unsupervised  
8 visitation with your minor children.

9 For as long as the order of protection is  
10 in place, you have to comply with that order of  
11 protection, Mr. Waddey, but even if the order of  
12 protection is lifted by the state court, I am imposing  
13 the condition that you'll have no contact with Andrea  
14 Stokes -- Stokes -- I think it's Stones, actually,  
15 either directly or indirectly. That means no social  
16 media contact with her, no texting her, no sending  
17 messages to her.

18 So Gary Waddey, if you find that your son  
19 has been communicating with Ms. Stones on Instagram or  
20 Snapchat, that's a violation of the conditions of  
21 release and that has to be reported.

22 And I think the order of protection  
23 extends to the minor children too, but I -- even if it  
24 doesn't, because having any visitation with those  
25 children would otherwise require contact with

1 Ms. Stones, I'm going to restrict you from having any  
2 unsupervised visitation with them.

3 You will not travel outside the Middle  
4 District of Tennessee without the permission of the  
5 probation office.

6 And then Mr. Foster, are the other  
7 standard conditions about not possessing firearms,  
8 refraining from the unlawful use of narcotics and drug  
9 testing, those are all standard conditions of  
10 Mr. Waddey's supervised release that will remain in  
11 place; correct?

12 MR. FOSTER: That is correct.

13 THE COURT: But I'm wondering since it  
14 may be the possibility that the revocation hearing  
15 does not occur until after the 31st of May, I'm going  
16 to go ahead and order those things, just so that  
17 there's no question about whether those conditions of  
18 supervised release remain in place. They will be  
19 conditions of his release pending the revocation  
20 hearing.

21 So I am going to --

22 MR. FOSTER: It's my understanding that  
23 until Judge Crenshaw reaches a resolution on the  
24 pending violation matter, Mr. Waddey will remain under  
25 supervision.

1           THE COURT: I'm supposing that's a  
2 correct statement of the law, but just so that there's  
3 no question about that, even if these are duplicative  
4 conditions, I'm going to impose them anyway. Just so  
5 that there's no question.

6           So no travel outside the Middle District  
7 of Tennessee without prior approval of the probation  
8 office. So I don't know where your construction jobs  
9 are, if they include counties outside the Middle  
10 District of Tennessee, Mr. Waddey, but if they do, you  
11 would have to get permission from Mr. Foster to go to  
12 those jobs. And if you don't get permission, then you  
13 will need to not work those jobs.

14           I'm also going to say that you will  
15 provide the probation officer with a weekly schedule  
16 of your work, what hours and where; that you will  
17 refrain from possessing any firearm, ammunition,  
18 destructive device or other dangerous weapons.

19           So Gary Waddey, you have the right and,  
20 in fact, the responsibility as a third-party  
21 custodian, to be going through your son's room to make  
22 sure that he doesn't have any of those things. And if  
23 he does, he has to be reported to the probation  
24 office.

25           He's going to refrain from any use of

1 alcohol, so that means no use whatsoever. So there  
2 needs to be no alcohol in the house. And if your son  
3 comes home from work and he smells like beer, then  
4 that's going to be a violation that has to be  
5 reported.

6 No use of any -- no possession or use of  
7 any unlawful narcotic drug. If you've got a  
8 prescription, that needs to be provided to Mr. Foster  
9 because he's going to continue to drug test you. You  
10 will submit to random drug testing, and you cannot  
11 obstruct or attempt to obstruct in any fashion with  
12 the efficiency or accuracy of the drug testing.

13 If Mr. Foster tells you that you have to  
14 participate in some kind of inpatient or outpatient  
15 substance abuse therapy and counseling, you have to  
16 follow that instruction. You also are going to  
17 participate in mental health evaluation treatment and  
18 program as deemed appropriate by the pretrial services  
19 officer -- or probation officer.

20 So that means that -- I know there's been  
21 some resistance before, Robert Waddey, to you  
22 participating fully in mental health treatment, but  
23 that -- I know that Mr. Foster is going to be  
24 coordinating that with your mental health providers  
25 because that -- everyone wants that treatment to be as

1 productive and successful as possible.

2 But if you are instructed by Mr. Foster  
3 to participate in mental health treatment based on the  
4 recommendations of your providers, then you need to be  
5 participating. And you need to be going to  
6 appointments and you need to be going to group  
7 sessions.

8 Yes, go ahead, Mr. Foster.

9 MR. FOSTER: Your Honor, along that line,  
10 I think that Mr. Waddey's supervision and all of the  
11 information that I've received from treatment  
12 providers thus far has shown rather conclusively that  
13 Mr. Waddey is not willing to engage with treatment  
14 providers other than Dr. Wilson and Dr. Kyger, nor  
15 would it be fruitful to make any further referrals.

16 So that end, I would request that  
17 Mr. Waddey, to whatever degree he may not have been  
18 receiving treatment from those doctors up until the  
19 time of his arrest, I would ask that he be ordered to  
20 resume treatment with those providers. And that he  
21 provide me with a list of his treatment schedule and  
22 that after each appointment he obtain some form of  
23 proof that he did attend treatment.

24 That way we would not be in a position  
25 where in order to meet your -- fulfill your order we

1 were forced to -- we would have to refer him somewhere  
2 other than where we know that he will already go.

3 THE COURT: All right. It's Dr. Kriger,  
4 that's K-r-i-g-e-r; correct?

5 MR. FOSTER: I believe Kyger, K-y-g-e-r.

6 THE COURT: K-y-e-r?

7 MR. FOSTER: K-y-g-e-r.

8 THE COURT: All right. And then  
9 Dr. Wilson is the other provider?

10 MR. FOSTER: Yes, that's my  
11 understanding; although, if there is another treatment  
12 provider who's already in the mix, I think now would  
13 be the time to disclose that so that can be part of  
14 the record.

15 THE COURT: Mr. Farmer, are there any  
16 other mental health providers with whom Mr. Waddey  
17 would be willing to participate in treatment?

18 MR. FARMER: I don't -- I don't know of  
19 one, Your Honor. Those are the two I know of.

20 THE COURT: All right. So I'm going to  
21 order that Mr. Waddey will resume treatment  
22 immediately with Dr. Kyger and Dr. Wilson. And he  
23 will provide a schedule of weekly appointments to  
24 Mr. Foster and then confirmation that he kept that  
25 appointment.

1           And, Gary Waddey, if that means that your  
2       son needs to miss work to go to appointments with his  
3       mental health providers, then he's going to need to  
4       miss work. And I'm even going to put that, that he'll  
5       maintain or seek employment except as necessary to  
6       receive mental health treatment.

7           That's going to be the most important  
8       thing at this point, Robert Waddey, is that you get  
9       back into treatment with Dr. Kyger and Dr. Wilson and  
10      that you keep -- you make appointments with them and  
11      you keep those appointments with them. And follow  
12      their recommendations.

13          All right. Then report as soon as  
14      possible and no later than 48 hours to the supervising  
15      officer any contact with law enforcement personnel,  
16      including but not limited to any arrests, questioning  
17      or traffic stop. So any kind of contact with law  
18      enforcement of any kind. If you're in a car and you  
19      go through a roadblock and they stop the driver,  
20      that's contact because you're in the car, though, so  
21      you have to report that.

22          Something happens in your neighborhood  
23      and the police are questioning you, even if it has  
24      nothing to do with you, that's contact. And certainly  
25      any contact as a result of your own conduct has to be



1 reported.

2 And you'll permit probation officers to  
3 visit at any time at your home or elsewhere without  
4 advance notification and permit confiscation of any  
5 contraband observed in plain view. You will be placed  
6 in the third party custody of Gary Waddey, to reside  
7 at the defendant's current residence with Gary Waddey.

8 Mr. Foster -- oh, and I'm going to say  
9 other than work, scheduled court appointment, court  
10 hearings, medical or mental health appointments,  
11 religious services or appointments with his lawyer,  
12 that he'll be subject to home confinement with the  
13 monitoring to be at the discretion of probation  
14 office, Mr. Foster. So you can figure out however  
15 best you need to monitor that. And that will be  
16 completely within your discretion.

17 Go ahead, Mr. Foster.

18 MR. FOSTER: I would suggest that given  
19 the nature of the third-party custodian with which  
20 Mr. Waddey is being released, I think that ordering  
21 him to remain at home, other than for those times  
22 (indiscernible) would be sufficient.

23 Even with the limited types of monitoring  
24 the probation office could offer right now, I don't  
25 think it would be (indiscernible) the level of

1 monitoring that his father is currently offering. I  
2 would only advise or request that his father agree to  
3 remain in touch with me and while we're in this  
4 hearing provide me with his cell phone number so I can  
5 conduct a follow-up call as soon as the hearing is  
6 complete.

7 THE COURT: We're going to get his cell  
8 phone number. I'm going to leave in the monitoring at  
9 the discretion of the probation office, Mr. Foster,  
10 because then that gives you the ability to say contact  
11 by Gary Waddey is sufficient monitoring, that's all  
12 you need. But if at some point you think you need to  
13 step up the level of monitoring, then you can do that  
14 as well. I'm just going to leave that and leave it up  
15 to your discretion.

16 All right. And the procedure,  
17 Mr. Farmer, is going to be that I'm going to enter a  
18 separate release order and conditions of release with  
19 all of these conditions. I'm going to send you the  
20 one for Robert Waddey to sign, and then you will  
21 return that to the Court once he's signed it. And  
22 then I'll do a supplemental order that files that with  
23 the Court to show that he has reviewed all the  
24 conditions of release.

25 But let me ask a couple of things first.

1 Robert Waddey, you heard the conditions of release and  
2 the penalties for noncompliance. And do you  
3 understand all of the conditions of release and the  
4 penalties if you fail to comply?

5 THE DEFENDANT: Yes, ma'am, Your Honor.

6 THE COURT: And do I have your agreement  
7 that you will obey all the conditions of release to  
8 appear as directed and to surrender to serve any  
9 sentence imposed?

10 THE DEFENDANT: Yes, ma'am, Your Honor.

11 THE COURT: All right. So then  
12 Mr. Farmer is going to give you -- and that will be  
13 another condition that you will have to sign and  
14 return to your attorney these conditions of release.

15 All right. And Gary Waddey, having heard  
16 all of these conditions of release now, are you still  
17 willing to be a third-party custodian for your son?

18 MR. GARY WADDEY: Yes, Your Honor.

19 THE COURT: All right.

20 MR. GARY WADDEY: And thank you for your  
21 decision. I did want you to add, if you would,  
22 please, my wife, Paula.

23 THE COURT: I can do that.

24 MR. GARY WADDEY: And she is willing. If  
25 we need to sign any documents, she will be willing to

1 do so.

2 THE COURT: All right. And one of the  
3 two of you needs to -- I really feel, Mr. Waddey --  
4 and I say this as a mother. I really feel like adult  
5 sons pay more attention to their father than they do  
6 to their mothers. I can say that as the mother of a  
7 33-year-old adult son. So my preference would be that  
8 I will place him in the third-party custodian of both  
9 of you but that you be the one that is at his house in  
10 the evenings with him and spending the night with him.  
11 So I'm going to include that in the conditions of  
12 release. All right.

13 MR. GARY WADDEY: Well, yes. But I do  
14 have to travel on Fridays. I have to be at a  
15 different location, so that's why it needs to have  
16 both of us.

17 THE COURT: All right.

18 MR. GARY WADDEY: And, again,  
19 occasionally I do have to travel.

20 THE COURT: So what I'm going to say is  
21 unless you're out of town, and then it will be Paula  
22 Waddey who can spend the night. Hopefully this won't  
23 go on very long and Judge Crenshaw will set an early  
24 revocation hearing.

25 All right. And what is your address, you

1 and Paula Waddey's address, Mr. Waddey?

2 MR. GARY WADDEY: Yes. Judge, our  
3 address is 4716 Lealand Lane, L-e-a-l-a-n-d, Lane.  
4 And that is Nashville 37220.

5 THE COURT: All right. And your -- do  
6 you have a home telephone number?

7 MR. GARY WADDEY: Yes. The home number  
8 is (615) 292-4626.

9 THE COURT: And your cell number?

10 MR. GARY WADDEY: Is -- my cell number is  
11 (615) 945-5946.

12 THE COURT: And your wife's cell phone  
13 number?

14 MR. GARY WADDEY: Is (615) 945-5947.

15 THE COURT: All right. Mr. Farmer is  
16 going to send you this form that says upon finding  
17 that release to a third-party custodian will assure  
18 the appearance of the defendant and the safety of  
19 other persons in the community, I'm ordering that he  
20 will be released subject to the following conditions  
21 placed in your third-party custody; that you agree to  
22 supervise your son in accordance with all the  
23 conditions of release, to use every effort to assure  
24 his appearance at all scheduled court proceedings and  
25 to notify the Court immediately in the event that he

1 violates any conditions of release or disappears.

2 And that you understand that your failure  
3 to abide by this agreement may subject you to contempt  
4 of court proceedings. So Mr. Farmer is going to  
5 provide you with this form. You'll need to sign it  
6 immediately and send it back. And if you don't do  
7 that, then Mr. Suedekum is going to take further  
8 action to ask the Court to reconsider -- I'm quite  
9 certain that Mr. Suedekum will do that if he doesn't  
10 get this form back, particularly given the Court's  
11 findings about the importance of this third-party  
12 custodian arrangement.

13 All right.

14 MR. GARY WADDEY: Do you need my email  
15 address?

16 THE COURT: It probably would be helpful  
17 for Mr. Foster to have that and for Mr. Farmer to have  
18 it. So let me -- actually, I probably have it  
19 because -- was it gwaddey@comcast.net?

20 MR. GARY WADDEY: That's correct, ma'am.  
21 Thank you.

22 THE WITNESS: All right. So that's the  
23 address to which Mr. Foster can send the supervised  
24 release conditions and Mr. Farmer can send the other  
25 paperwork that you need to sign and be aware of.

1 Anything else, Mr. Foster?

2 MR. FOSTER: One, could you repeat that  
3 email address one more time?

4 THE COURT: Yes, it's gwaddey,  
5 g-w-a-d-d-e-y, at comcast.net.

6 MR. FOSTER: And the last matter would  
7 be -- and it would be nice if we could get someone in  
8 the marshals lockup on this, is when exactly  
9 Mr. Waddey will be released. I understand that he was  
10 brought from a local jail today. I'm not -- I want to  
11 make sure whether or not he's going to released now or  
12 tomorrow.

13 THE COURT: I think the requirement is  
14 that Davidson County does not let him -- they don't  
15 release him from here, that he'll have to go back and  
16 be released from there. And I'm not sure, given the  
17 time of day, if that will happen this afternoon or if  
18 it will happen in the morning.

19 Mr. Farmer, do you know the answer to  
20 that?

21 MR. FARMER: I do not know, Your Honor.

22 THE COURT: All right. I don't --

23 MR. FARMER: Frankly, I would expect them  
24 to release him tonight. Just knowing Davidson County,  
25 they tend to shuffle people out as quick as we can,

1 but I don't know for sure.

2 THE COURT: Well, we're providing the  
3 release order to the marshal, but I don't know the  
4 answer to that. Mr. Farmer, you'll need to contact  
5 the marshal and Davidson County and make arrangements  
6 because Mr. Waddey will need to be there to pick up --  
7 oh, wait a minute, I see a hand. Is there -- go  
8 ahead.

9 MARSHAL: Yes, Your Honor. This is Robin  
10 Romaniuk with the US Marshals.

11 THE COURT: Yes.

12 MARSHAL: And he was housed at Davidson  
13 County, and so we will send him back there, but he  
14 will be released subject to being booked out of their  
15 system as soon as he gets back.

16 THE COURT: Okay. And so Mr. Waddey or  
17 Mr. Farmer -- Gary Waddey or Mr. Farmer, you need to  
18 be there to pick him up. And then he'll need to --  
19 he'll be -- so that he can be released into one -- not  
20 just to be released back out onto the street. There  
21 needs to be someone there to pick him up and take him  
22 back home. All right? Which it's really -- I'll  
23 leave that up to you. That's really outside the  
24 Court's purview, but I'll leave that up to you.

25 MR. GARY WADDEY: That will not be a



1 problem.

2 THE COURT: All right. Anything else,  
3 Mr. Suedekum or Mr. Foster?

4 MR. SUEDEKUM: No, Your Honor. I'll  
5 just -- for the record, I started having video issues  
6 at some point while you were going through the  
7 conditions, and so I logged out and logged back in.  
8 It looked like I was probably the only one having the  
9 issue, so as long as everybody else was able to hear  
10 everything, I don't have any issues.

11 THE COURT: I think everybody was. And  
12 I'll -- you will see an order from me probably not  
13 today because I've got a whole slough of search  
14 warrants that are waiting for my review, but probably  
15 sometime in the morning we'll get the order -- release  
16 order entered and all of the conditions of release  
17 will be recited in that.

18 And then all the -- Mr. Farmer, it's  
19 going to be up to you to make sure all of this  
20 paperwork gets to the people it needs to get to and  
21 gets signed by the people it needs to be signed by and  
22 then gets returned to the Court because, again, if you  
23 don't do that, then there's a very good possibility  
24 that Mr. Suedekum is going to be asking for the Court  
25 to reconsider or set a status conference or take some

1 action to make sure that everyone's compliant with  
2 what's expected.

3 MR. FARMER: Yes, Your Honor.

4 THE COURT: All right. Anything else  
5 from you, Mr. Farmer, that we need to address this  
6 afternoon?

7 MR. FARMER: No, Your Honor. Thank you.

8 THE COURT: All right, then. Anything  
9 else, Mr. Foster, from you?

10 MR. FOSTER: No, Your Honor. Thank you.

11 THE COURT: All right. Thank you. We'll  
12 be in recess.

13 **\*\*\*END OF ELECTRONIC RECORDING\*\*\***  
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s/ Roxann Harkins\_\_\_\_\_  
ROXANN HARKINS, RPR, CRR  
Official Court Reporter